

Simon Miller

Terror and Dissent

**Towards the Social Structure of Popular
Protest in the Third Reich 1941 - 1945**

Volume I

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Abstract

Terror and Dissent: Towards the Social Structure of Popular Protest in the Third Reich 1941-1945

by

Simon Miler

This thesis explores the shape and form of acts of dissent committed by ordinary Germans between 1941 and 1945. Its purpose is to establish the motivations of individuals who contravened a draconian legal code which mandated the death penalty for even minor misdemeanour. In the period considered, German civilian courts sent over 15,000 people to their deaths. Specifically, it looks at the influence of the three milieux (the Social-democratic, Communist and Catholic) most antagonistic towards Nazism on those persons who confronted the Nazi regime. The thesis concentrates on the final four years of Hitlerian rule when Nazi terror was most arbitrary and violent. It makes use of an open-ended understanding of dissent and opposition first established by Martin Broszat in the Bavaria Project in the 1970s. Based on the empirical analysis of over three thousand Gestapo and police records taken from archive holdings in Düsseldorf and Munich, the thesis asks and provides answers to the following questions

- 1) Was political motivation a key factor in persuading individuals to become involved in oppositional actions?
- 2) Were opposition forms of action 'circumstantial' - that is a product of often spontaneous random reactions - rather than premeditated?
- 3) Did they follow from any specific known experiences and/ or a process of gestation?
- 4) Were those involved in such actions socially isolated 'outsiders', or were they a part of a distinctive social milieu or sub-culture?
- 5) Are sociological and geographical patterns of 'everyday' resistance perceptible?

The thesis places renewed emphasis on the importance of terror, rather than consent, to the maintenance of Nazi rule. It locates both police and legal terror within a wider terror nexus which brought considerable pain and suffering to many hundreds of thousands of Germans.

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Glossary of Abbreviations

BBC	British Broadcast Corporation
BStA M: Sondergericht	Bayerisches Staatsarchiv München (Sondergerichtakten) Bavarian State Archive Munich (Special Court Files)
<i>BIGefK</i>	<i>Blätter für Gefängniskunde</i>
BVP	Bayerische Volkspartei Bavarian People's Party
<i>CEH</i>	(Journal of) <i>Central European History</i>
HSta D: Gestapo	Hauptstaatsarchiv Düsseldorf (Gestapo Akten Düsseldorf) Düsseldorf State Archive (Düsseldorf Gestapo Files)
DAF	Deutsche Arbeitsfront German Labour Front
DNVP	Deutschnationale Volkspartei German National People's Party
DVP	Deutsche Volkspartei German National Party
GDR	German Democratic Republic
Gestapa	Geheimes Staatspolizeiamt (Central Offices of the Gestapo in Berlin)
Gestapo	Geheime Staatspolizei Secret State Police
<i>HWJ</i>	<i>History Workshop Journal</i>
ITF	Internationale Transportarbeiterföderation International Transport Workers' Federation
<i>JMH</i>	<i>Journal of Modern History</i>
<i>JZ</i>	<i>Juristische Zeitschrift</i>
KdF	Kraft durch Freude Strength through Joy
KPD	Kommunistische Partei Deutschlands Communist Party of Germany

Kripo	Kriminalpolizei Criminal Investigation Police
NSDAP	Nationalsozialistische Deutsche Arbeiterpartei National Socialist German Workers' Party
NSKK	Nationalsozialistische Kraftfahrerkorps National Socialist Drivers' Corps
NSV	Nationalsozialistische Volkswohlfahrt National Socialist Welfare Organisation
Orpo	Ordnungspolizei Order Police (Uniformed officers)
POW	Prisoner of War
RAF	Royal Air Force
RFV	Roter Frontkämpferverband Red Front fighters' Federation
RGO	Rote Gewerkschaftsorganisation Red Trade Union Organisation (affiliated to KPD)
RLB	Reichsluftschutzbund Reich Air Protection League
RSHA	Reichssicherheitshauptamt Reich Security Main Office (Umbrella organisation for the different security and police services founded in 1939)
SA	Sturmabteilung Storm Division (Nazi brownshirts)
Schupo	Schutzpolizei Uniformed City Police (lit. Protection Police)
SD	Sicherheitsdienst Security Service of the NSDAP
Sipo	Sicherheitspolizei Security Police (Umbrella organisation for the Gestapo and Kripo founded in 1936)
Sopade	Sozialdemokratische Partei Deutschlands Exiled executive of the SPD based first in Prague (1933-38), Paris (1938-40) and London (after 1940)

SPD	Sozialdemokratische Partei Deutschlands Social-democratic Party of Germany
SS	Schutzstaffel Protection Squads
Stapo	Short form for Staatspolizei or Gestapo
Stahlhelm	Steel Helmets (Nationalist paramilitary formation)
StgB	Staatsgesetzbuch State Law Code
USPD	Unabhängige Sozialdemokratische Partei Deutschlands Independent Social-democratic Party of Germany
V-men	Vertrauensmänner Paid Gestapo informants
WaH VGH	<i>Widerstand als Hochverrat</i> Volksgerichtshofakten People's Court files as published in <i>Widerstand als Hochverrat</i>

Glossary of Relevant Legislation

6th Oct. 1931	Law for the Security of the Economy and Finances and the Combating of Political Atrocities <i>Gesetz zur Sicherung von Wirtschaft und Finanzen und zur Bekämpfung politischer Ausschreitungen</i>
28th Feb. 1933	Emergency Decree for the Protection of the People and the State (Reichstag Fire Decree) <i>Verordnung des Reichspräsidenten zum Schutz von Volk und Staat</i>
21st Mar. 1933	Defence against Malicious Attacks on the Government of the National Uprising <i>Notverordnung zur Abwehr heimtückischer Angriffe gegen die Regierung der nationalen Erhebung</i>
29th Mar. 1933	Law for the Passing and Execution of the Death Penalty (Lex van der Lubbe) <i>Gesetz der Verhängung und Vollzug der Todesstrafe</i>
7th Apr. 1933	Law for the Restoration of a Professional Civil Service <i>Gesetz zur Wiederherstellung eines Berufsbeamtentums</i>
26th Apr. 1933	The Law for the Organisation of a Secret Security Police <i>Gesetz für die Organisation einer Geheime Staatspolizei</i>
28th Nov. 1933	Presidential Decree for the Betrayal of the German Nation and Treasonable Activities <i>Verordnung gegen Verrat am deutschen Volk und Hochverrätische Untreibe</i>
24th Apr. 1934	Law for Treason and High Treason <i>Gesetz über Hoch- und Landesverrat</i>
12th Jun. 1934	Law for the Constitution of a People's Court <i>Gesetz über den Volksgerichtshof</i>
20th Dec. 1934	1934 Law against Malicious attacks on the Party and State <i>Gesetz gegen heimtückische Angriffe auf Staat und Partei und zum Schutz der Parteiuniformen</i>
8th Jun. 1935	Law for Changes to the Legal Code <i>Gesetz zur Änderungen des Strafgesetzbuchs</i>

- 28th Jun. 1935 Amendment to Law establishing parity of thought and deed which introduced the concept of 'No crime without punishment to German jurisprudence
Analogienvelle
- 1st Sept. 1939 Law for the Administration of Justice and Judicial Jurisdictions in Wartime
Verordnung über Massnahmen auf dem Gebiet der Gerichtsverfassung und der Rechtspflege
- 1st Sept. 1939 Law on Extraordinary Radio Measures
Verordnung über außerordentliche Rundfunktmaßnahmen
- 4th Sept. 1939 Law Governing the War Economy
Kriegswirtschaftsverordnung
- 25th Nov. 1939 Law for the Protection of German Fighting Strength
Wehrkraftschutzverordnung
- 21st Mar. 1942 Decree for the Protection of the Military Economy
Verordnung zum Schutz der Rüstungswirtschaft
- 29th Jan. 1943 Decree on the Undermining the Fighting Strength of the German Nation and Desertion
Verordnung über Zersetzung der Wehrkraft and Wehrdienstentziehung

Introduction

Despite the existence of an extensive academic literature on the subject of German resistance to Nazism, there remains considerable scope for further scholarly endeavour in this crowded and contentious field. One of the many questions yet to have been fully answered concerns what we might usefully term the social-milieu of resistance and its relationship to the actions and motivations of individuals. A number of important issues remain to be addressed in relation to the social basis of resistance and its extent, particularly at grass roots level. It is true, that much valuable research has been carried out since the 1970s, when the social history of resistance was first established in German historiography. However, historical understandings of the interrelationship between rulers and resisters could be further and usefully broadened through the systematic, empirical analysis and comparison of existing sources. In recent years new approaches and insights to the workings and practice of the institutions of Nazi terror and repression, and popular responses to Hitlerian rule more generally, have challenged many long-held preconceptions about the relationship between Hitler and the German people. Under these circumstances, a re-evaluation of the role and purpose of Nazi legal terror and the extent and nature of dissent would be both judicious and profitable.

As with so many other aspects of Nazi Germany, writings on the reactions of Germans to Nazism have been informed by concepts and approaches determined by a morality inextricably linked to the horrors of the camps and a consequent and an all too easily understandable need to condemn. Otherwise excellent writing and coolly considered judgements have been, in part, undermined by a compulsion to reach judgements and understandings which have sought to explain, in essentially moral terms, humanity's capacity to commit, tolerate and refute evil. More so than perhaps any other field of research into Nazi Germany, writing on German resistance has been shaped by the moral, political, and social agenda of the post-war order and that of Germany, divided and reunited. Driven by the need to both win legitimacy and come to terms with a difficult and uncomfortable past, as well as broaden historical understandings, writing on German

resistance to Nazism has condemned, condoned, exculpated and excused.

Early writing portrayed Nazi Germany as a totalitarian society, its population cowed into submission by a ruthless and omnipotent terror apparatus. In this context, the small group of elite resisters connected with the 20th July 1944 bomb plot on the life of Hitler on whom initial academic attention focused, were elevated to the status of heroes; their actions indicative of a noble, German democratic tradition which needed to be told in the light of the horrors of war and the crimes of Nazism. This once widespread interpretation has undergone considerable and much needed revision and the contours of the study of the interrelationship between rulers and ruled in Nazi Germany have changed considerably. Historians have increasingly focused on the selective and targeted nature of Nazi terror. The majority of Germans, it has been convincingly argued, were unaffected by the agencies of Nazi repression. The Canadian historian Robert Gellately has been the most vocal and articulate advocate of this new history of 'consent and coercion' in Nazi Germany. Like many historians, Gellately has placed considerable emphasis on the popularity of Nazi rule. Nazi terror, he contended, was carried out in the public domain with the explicit aim of garnering popular support for the persecution of minorities. Terror directed at "outsiders', 'asocials', 'useless eaters' or 'criminals'" was popular and met with the widespread approval of the majority of Germans.¹ Gellately's line of argument builds on his groundbreaking earlier work on the Gestapo (*Geheime Staatspolizei* - Secret State Police) records in the Franconian city of Würzburg in which he aimed to undermine the established myth of Gestapo omnipotence. Instead, he presented a Germany in which citizens, through denunciation, 'served as the eyes and ears of the police' and were active and willing accomplices in their own repression.² Germany, he maintained, was a self-policing society; 'the German people backed the Nazi dictatorship.'³

However, the conditions under which Germans lent their support to Hitler and the extent to which this support was willingly given, cannot be fully explored unless attention is given to

¹ Gellately, R., *Backing Hitler: Coercion and Consent in Nazi Germany*, (Oxford, 2001), p. vii.

² Gellately, R., *Backing Hitler*, p. 5.

³ Gellately, R., *Backing Hitler*, p. 8.

the hundreds of thousands of Germans who were prosecuted by the regime for failing to do so and, through their actions, no matter how seemingly insignificant, crossed the fine line from 'National-comrades' to 'Community-aliens'. Indeed, consent can appear a somewhat empty and easy concept unless it is rooted in the everyday experiences of Germans; a purported willingness to follow Hitler to the brink adds little to historical understanding unless it is underpinned by an analysis of the complex thought-processes and dilemmas faced by Germans in the unique circumstances of the Third Reich. If we seek to explain support for Hitler we must acknowledge the exigencies and brutalities of war and take stock of the options afforded to the ordinary man on the street. Decisions both to conform and confront were mitigated by a host of factors, foremost among which was the need to survive and protect family and loved-ones.

Moreover, implicit even in Gellately's otherwise nuanced and stimulating writings, is an unacknowledged moral condemnation that lends credence to altogether less academic claims; the inference that Germans willingly and gladly elected to follow the destructive energy of Hitler to its horrific conclusion. However, there is no place in history for subjective moral judgements. As the British historian Ian Kershaw has remarked 'for an outsider, a non-German who never experienced Nazism, it is perhaps too easy to criticise, to expect standards of behaviour which it was well nigh impossible to attain in the circumstances'.⁴ The documentation of the prosecutions of thousands of Germans who acted in contravention to the 'total claim' of Nazism stands testament to the diffuse and complex reactions of Germans to Nazi rule. It is only through the analysis of the motivations and actions of those Germans both supportive of and opposed to Nazism, and an understanding of what Richard Evans has described as 'the sheer complexity of the choices they had to make and the difficult and often opaque nature of the situations they confronted',⁵ that we can achieve a balanced picture of the interrelationship between consent and coercion.

An emphasis on consent comes at the necessary expense of the importance of coercion to

⁴ Kershaw, I., *Popular Opinion and Dissent in the Third Reich: Bavaria 1933 - 1945*, (Oxford, 1983), p. vii.

⁵ Evans, R., *The Coming of the Third Reich*, (London, 2004), p. xix.

the maintenance of Nazi rule and, crucially, underplays the extent of dissent towards both specific Nazi policies and the regime more generally. The Nazi authorities presided over an active and sophisticated terror apparatus which subjected hundreds of thousands of Germans to brutal and often fatal punishment. Although the later horrors of the camps and the realisation of a form of justice which sent thousands to their deaths were unimaginable to most Germans in 1933, Nazi rule was characterised from the outset by a brutality which broke from most pre-existing norms. In the first twelve months of Nazi government, Germany's prison population grew dramatically. On the eve of Hitler's appointment to the German Chancellorship, the prison population stood at 63,000, within the year it had risen to 95,000, swollen by the imprisonment of large numbers of mostly left-wing political opponents who were arrested and tried under new legislation enacted with the sole purpose of destroying political opposition to National Socialism.⁶ In total, more than 150,000 Germans were arrested and imprisoned in the first year of Nazi rule. The vast majority never stood trial but were instead interned in the many unofficial camps run by the SA and the nascent concentration camp system run by Himmler's SS.

The initial violence which founded the regime proved effective. Organised opposition to Nazism collapsed in the face of the Nazi challenge and prisoner numbers reflected this. Indeed, in the two years directly before the outbreak of war in September 1939, the prison population even declined slightly, falling from a pre-war high of 115,962 inmates in June 1937 to 108,965 in June 1939. The number of political prisoners held in German prisons also fell from over 23,000 at the end of 1935 to 11,265 in December 1938.⁷ More ominously, the number of prisoners held in concentration camps had risen steadily from 3,000 in 1934 to 21,000 in 1939. During the war both the prison and concentration camp populations exploded as the exercise of terror became less restrained. By the spring of 1942, 167,865 inmates were incarcerated in the prisons of the Reich and the number of those held in concentration camps in the Reich had risen to 75,000. By the winter of 1944/45, the prison population had reached 189,940. The number of inmates interned in

⁶ All prison and concentration camp prisoner numbers are taken Wachsmann, N., *Hitler's Prisons*, (London, 2004), pp. 394 - 395.

⁷ Wachsmann, N., *Hitler's Prisons*, pp. 166 - 167.

concentration camps in the Reich stood at a staggering 714,211. In both the prisons and the camps the possibility of exhausting work, starvation, torture, disease and execution were everyday phenomenon.

It is difficult to know exactly how many people were imprisoned or interned under Nazism. Although the figures cited above provide an accurate guide to prisoner numbers at specific points in time, they are also slightly misleading as they do not reflect the very high number of short custodial sentences passed by German courts or brief periods of internment in the camps. More importantly, it is difficult to gauge just how many of the Reich's prisoners were in fact German. The destruction of valuable files during the final months of the war in order to obfuscate both the role of the courts and the police in Nazi persecution has ensured that this exact information has been lost to history. However, it has been convincingly argued that during the war Reich citizens accounted for two thirds of the prison population and several hundred thousand of those incarcerated in concentration camps during the final year of the war.⁸ The three thousand cases of dissent which form the investigative focus of this thesis are but the tip of this much larger iceberg. Indeed, the sum total of those prosecuted for acts of dissent during the twelve years of Nazi rule, does not give true credence to the real extent of dissent. Many oppositional actions remained undiscovered by the authorities, the perpetrators fortunate to have escaped persecution. Others, particularly in the final months of the war, were dealt with summarily by the police, passing through the system too briefly to have left a paper trail or for their fates to have been registered.⁹

The analysis of the three thousand court records which form the basis of this thesis should help to elucidate the circumstances which gave rise to individual's decisions to oppose in some form a regime determined to destroy every vestige of opposition. It will, through the extensive use of different court and police records, allow us to compare the attitudes and behaviour of communities and individuals at both a regional and a national level and, in doing so, make a useful and important contribution to the historical understanding of the

⁸ Wachsmann, N., *Hitler's Prisons*, pp. 257 - 262.

⁹ Schmid, H., *Gestapo Leipzig: Die politische Abteilung des Polizeipräsidijs und die Staatspolizeistelle 1933-1945*, (Leipzig, 1997), pp. 66 - 68.

sociology of German dissent to Nazism. Beyond this, the systematic and quantitative analysis of this statistical data, of 'crime' and motivation, and of oppositional action from below should help to establish thresholds whereby spontaneous opposition actions passed into motivated decisions to reject Nazism absolutely. Perhaps more significantly, the reconstruction of the lives of individuals thus prosecuted will demonstrate the existence of 'other Germanies' deeply influenced by the political and social formations of the Weimar Republic, which survived in some form in spite of Nazi persecution. Cumulatively, the conclusions of this analysis, particularly the elucidation of the breadth and extent of dissent, might also give cause to reflect on the claims made by Gellately of the importance of consent and the relative unimportance of coercion to Nazi rule.

This thesis focuses on the period from 1941 to 1945, the years in which Nazi terror reached its high point. It is essential that any attempt to reassess the importance of dissent and place new emphasis on its extent takes account of the final years of Nazi rule, when acts of dissent entailed the greatest risk and danger, and the need for national unity in the face of the Allied onslaught was most pressing. The years considered bore witness to a marked radicalisation of the Nazi regime's terroristic practices, made clear in the increase in prisoner numbers listed above. As we shall see in the subsequent chapters, the introduction of new laws, particularly in the first years of the war, criminalised many aspects of daily life and brought many thousands of Germans whose lives had previously been untouched by contact with the Nazi authorities into the orbit of the regime's agencies of terror.¹⁰ During this period punishment also became considerably more severe. Increasingly, even the most trivial infringements of what was already a draconian legal code could result in the execution of the perpetrator.¹¹ In total, fifteen thousand of the sixteen thousand death sentences handed down by the Nazi courts were passed in the period considered.¹²

Although many continuities did exist with the period before, there should be little doubt that

¹⁰ Roser, F., 'Das Sondergericht Essen 1942-1945', *Juristische Zeitschrift*, 7 (2000), pp. 74 - 75.

¹¹ Keldungs, K., 'Das Duisburger Sondergericht 1942-1945', *Juristische Zeitschrift*, 2 (1998), pp. 24 - 25.

¹² Wachsmann, N., *Hitler's Prisons*, p. 403.

1941 marked a watershed in the development of the Nazi regime. The invasion of the Soviet Union on 22nd June 1941 and the embarkation on an ideological crusade intended to destroy absolutely the twin enemies of Bolshevism and Judaism, massively altered the context within which the regime operated.¹³ The escalation of terror was part of a wider trend within Nazi governance. As the regime sought to realise its murderous ideological goals amidst the chaos of war, those with a history of radicalism were increasingly promoted to positions of ever greater power and influence.¹⁴ The extraordinary powers wielded by Heinrich Himmler and Josef Goebbels in particular after 1943 were not the result of historical accident but the logical consequence of a system of government that rewarded blind loyalty and ideological determination.¹⁵ Planning for the murderous campaign in the East had set new parameters for many aspects of Nazi rule.¹⁶ In the months immediately before the launch of operation Barbarossa the Gestapo had started to clamp down on those suspected of oppositional activity.¹⁷ Communists, in particular, were arrested in large numbers and interned in concentration camps from which many never left.¹⁸

The Nazi regime itself regarded the war with the Soviet Union as a battle for national survival which demanded both great sacrifice and loyalty from ordinary Germans.¹⁹ The need for national unity justified the increase in terror which was ostensibly intended to shore up the home front and prevent the perceived descent into chaos which had expedited the German defeat in the First World War.²⁰ In this context grumblers, dissenters, and those who those who believed in ideologies other than Nazism could easily be labelled as traitors

¹³ Kershaw, I., *Hitler 1936-1945: Nemesis*, (London, 2000), pp. 388 - 389.

¹⁴ Overy, R., *The Dictators: Hitler's Germany, Stalin's Russia*, (London, 2004), pp. 70 - 73.

¹⁵ Mommsen, H., *Von Weimar nach Auschwitz: Zur Geschichte Deutschlands in der Weltkriegsepoche*, (Munich 2001), pp. 254 - 257.

¹⁶ Kershaw, I., *Hitler 1936-1945: Nemesis*, pp. 341 - 389.

¹⁷ Mallmann, K., & Paul, G., *Herrschaft und Alltag: Ein Industrieviertel im Dritten Reich. Widerstand und Verweigerung im Saarland 1935-1945 (Vol. 1)*, (Bonn, 1991), pp. 262 - 263.

¹⁸ Peukert, D., *Die KPD in Widerstand: Verfolgung und Widerstand an Rhein und Ruhr 1933 bis 1945*, (Wuppertal, 1980), pp. 332 - 382.

¹⁹ Overy, R., *The Dictators*, pp. 536 - 539.

²⁰ Wachsmann, N., *Hitler's Prisons*, p. 195.

deserving of their fates.²¹ In matters of justice and punishment, the appointment of the former president of the People's Court and fanatical Nazi, Otto Thierack, as Minister of Justice on 20th August 1942 following the death of the conservatively minded Fritz Gürtner in January 1941, reflected the regime's increasingly radical intent. Thierack oversaw a further radicalisation of judicial practices which saw the legal system become almost entirely subservient to the political will of Nazism.²² Under his stewardship court sentences became increasingly arbitrary and severe. In 1940 German courts had passed three hundred and six capital sentences. By 1941 this number had increased to one thousand two hundred and ninety-two.²³ However, in 1943 German courts passed an astonishing five thousand three hundred and thirty-six death sentences. The gradual collapse of the German fighting fronts also led to further increases in terror. To ever greater extents, the violence which Germany had exported to the countries of occupied Europe was realised in the Reich itself.

German Resistance in Context

German resistance to Nazism has often been unflatteringly compared with the resistance movements of occupied Europe.²⁴ Rarely did acts of resistance perpetrated by Germans match the widely celebrated acts of perceived military heroism which have come to characterise the accounts of the the various armies of resistance of occupied Europe. Only the attempt on the life of Hitler on the 20th July 1944 and the efforts of the lone would be

²¹ Richter, I., *Hochverratsprozesse als Herrschaftspraxis im Nationalsozialismus: Männer und Frauen vor dem Volksgerichtshof 1934-39*, (Münster, 2001), p. 137. & p. 142.

²² Wachsmann, N., *Hitler's Prisons*, p. 216.

²³ Figures taken from Wachsmann, N., *Hitler's Prisons*, p. 403.

²⁴ v. Klemperer, *German Resistance Against Hitler: The Search for Allies Abroad*, (Oxford, 1992), p. 1.

assassin, Georg Elser,²⁵ make for ready comparison with the many obviously brave and sometimes spectacular acts of certain European resistance movements. However, the history of resistance in Europe is still shrouded in mist. Many early accounts of European resistance movements were highly politicised and self-serving hagiographical accounts that overlooked much compromising detail.²⁶ Ultimately they have contributed to a myth of resistance upon which the legitimacy of many post-war European governments has rested. Only recently have historians looked more critically at the history of resistance to Nazism in occupied Europe and called into question the idea of 'National resistance'.²⁷ Perhaps more importantly, it has become increasingly clear that comparisons between German resistance to Nazism and the resistance movements of other European nations are of limited use as they deal with two very different phenomenon.

German resistance to Nazism was complicated by a host of factors largely absent in those nations subjected to German rule.²⁸ Germans were not engaged in a war of liberation against a violent and often murderous occupying power, a cause to which many subject nationals could rally and which, in certain circumstances, could help to unite in common cause otherwise different groups, separated by both class and politics. Importantly, those Germans who engaged in oppositional activity were often regarded by many of their countrymen as traitors and cowards who sought to undermine their own government rather

²⁵ Georg Elser was a thirty-six year old Swabian joiner who had exhibited little active interest in politics. He had though become increasingly angry at the deterioration of the position of the German working-class under Nazism and was anxious about the possibility of war. Having read about a gathering of party leaders, to be attended by Hitler, that was to take place in Munich's Bürgerbraukeller in early November 1939, Elser determined to act. Over a period of months Elser, unnoticed by anyone, hollowed out a cavity in a column adjacent to where the speaker's dais would be positioned. Into this cavity he inserted a home made time bomb, made with explosives stolen from the munitions factory where he had worked. Hitler was fortunate to escape the eventual blast on 8th November 1939 which killed eight people and injured a further sixty-three. Had Hitler not unexpectedly cut short his address in order to leave for Berlin, there is little chance that he would have survived. Elser was arrested trying to cross the Swiss border illegally at Konstanz. Postcards in his possession of the Bürgerbraukeller linked him directly to the blast. On the 14th November he confessed. He was interned in Sachsenhausen concentration camp. In the winter of 1944/45 Elser was transferred to Dachau. He was executed shortly before the American liberation of the camp.

²⁶ Mazower, M., *Inside Hitler's Greece: The Experience of Occupation 1941-44*, (London, 2003), p. xvi.

²⁷ Kirk, T., & McElligott, A., 'Introduction: Community, Authority and Resistance to Fascism' in Kirk, T., & McElligott, A., (eds.) *Opposing Fascism*, (Cambridge, 1999), p. 5.

²⁸ v. Klemperer, *The German Resistance Against Hitler*, pp. 8 - 10.

than heroes in the fight for national liberation.²⁹ Similarly, as the Nazi regime entered its most violent and despicable phase, those Germans engaged in resistance activities had to contend with the possibility that their actions might well lead not only to German defeat, but also to occupation by the Allied armies.

The possibilities of oppositional action and manoeuvre in Nazi Germany were limited and different to those that existed in occupied Europe. Few Germans were in a position to attack the regime. Increasingly only those at the centre of power were capable of taking effective action, persons who were themselves compromised by their long association with the regime.³⁰ The actions of ordinary Germans were severely circumscribed by their distance from power.³¹ By contrast, the resistance movements of occupied Europe could make some use of the arms and expertise of their nation's defeated armies. Moreover, they could count on the partial support of local populations and make good use of the occupying forces' limited knowledge of the subjugated territories, advantages unavailable to Germans opposed to Nazism. In many cases, European resistance movements were also well supported by the Allied powers. No such help existed to the German opponents of the Hitler regime with whom the Allies refused to negotiate.³² German resisters were by and large isolated and likely to fall victim to a large and sophisticated terror apparatus. Clearly, the model of an organised, underground resistance army, is entirely inappropriate to the conditions existent in Nazi Germany. Even the idea of passive-resistance and active non-collaboration which have so usefully been employed to describe the German resistance to the French and Belgian military occupation of the Ruhr in 1923, as well as, to more limited extents, the passive but ultimately hostile attitude of a substantial part of the populations of the Netherlands and Denmark,³³ can only be applied to Germany with great difficulty and limited use. It was difficult, indeed, if not nigh impossible for Germans not to engage in

²⁹ v. Klemperer, *The German Resistance Against Hitler*, p. 8.

³⁰ Kershaw, I., *The Nazi Dictatorship: Problems and Perspectives of Interpretation*, (London, 2000), pp. 212.

³¹ Kershaw, I., *The Nazi Dictatorship*, p. 212.

³² v. Klemperer, *The German Resistance Against Hitler*, pp. 217 - 219.

³³ Rings, W., *Life with the Enemy: Collaboration and Resistance in Hitler's Europe 1939-1945*, trans. Brownjohn, J., (London, 1982) p. 69.

some form with their state.

The shape and form of German resistance to Nazism changed over the twelve years of Nazi rule. It was informed in no small part by the nature and success of the Nazi terror. In the first two years of Nazi rule, both the SPD and the KPD launched determined campaigns to build cohesive illegal party structures, and create mass underground worker's opposition movements.³⁴ However, these early attempts to actively confront Nazism fell foul of Gestapo success and were abandoned by stages in the face of mounting casualties and an unwillingness among former party members and supporters to engage in such risky endeavours.³⁵ Catholic leaders were also initially critical of aspects of Nazi policy and openly condemned the regime as 'heathen' and 'unchristian'.³⁶ However, the growing fear of persecution and the brutal treatment to which perpetrators were subjected, no less than the speed with which the regime established itself, forced substantial changes to the practice of resistance. Increasingly, the 'crimes' committed by Germans were insular in nature or were informed by the highly unusual circumstance of life in the Third Reich.³⁷ Causes for complaint abounded and motivated many Germans to articulate sentiments critical of the regime. As we shall see in later chapters, many Social-democrats sought to maintain informal bonds with former comrades. Catholic criticism of Nazism became more muted except on those issues where Church and state interests collided. The KPD concentrated its resources on maintaining an illegal party structure and the limited production of propaganda rather than confronting the regime more openly, for which it lacked both popular support and the necessary means.

³⁴ Burleigh, M., *The Third Reich: A New History*, (London, 2000), p.665.

³⁵ Burleigh, M., *The Third Reich*, pp. 672 -673.

³⁶ Kershaw, I., *The Nazi Dictatorship*, pp 210 - 211.

³⁷ Steinbach, P., 'Widerstand gegen den Nationalsozialismus' in Steinbach, P., & Tuchel, J., (eds.) *Widerstand gegen den Nationalsozialismus*, (Berlin, 1994), pp 17 - 22

Historiography

The historiography of German resistance to Nazism has been shaped and informed by the continuing attempt, particularly within Germany, to come to terms with the legacy of the Nazi past. From an initially narrow and politically informed focus on the actions of the 20th July 1944 bomb plotters and, in the Communist German Democratic Republic, the conspiratorial activity of members of the German Communist Party (KPD) underground organisation, the scope of resistance writing has broadened considerably to include the everyday and often compromised actions of ordinary Germans from every strata of society. This development has been far from linear. It has been characterised by fractious and stimulating debates, informed by the changing social and political climate of post-war Germany. However, sixty years after the defeat of Nazism, not only do historians continue to disagree on the extent of resistance but they have been unable to agree an adequate definition of the term. Indeed, debate continues as to whether the term 'resistance' should be used at all.

It is perhaps unsurprising that the historiography of German resistance to Nazism has been the almost exclusive preserve of German historians. The history of resistance played a key role in the creation of an identity in both the German Democratic Republic and the German Federal Republic. Unsurprisingly in a world in which the memories of war and the crimes of Nazism were fresh in the minds of many, the two newly founded German states sought legitimacy in a heritage untainted by Nazism, in the actions, memory and philosophy of those who had confronted Hitler. The West German state, conservative, democratic and pro-western claimed antecedents in the thoughts, words and deeds of the opposition groups associated with the 20th July bomb plotters, laying claim to a Christian, democratic tradition that was, superficially, readily identifiable in Adenauer's Federal Germany. Although writing on the German resistance to Nazism was not limited to the groups associated with the bomb plotters alone, it nevertheless focused on elite groups where a nobility of motive was discernible or where a possible parallel might be drawn with the actions of more

celebrated resistance groups in occupied Europe.³⁸ Resistance to Nazism was increasingly portrayed as the struggle of small groups of people fighting for democracy and freedom against a totalitarian monolith.³⁹ In the context of the cold war, the parallel between Nazism and Communism was clear. Resistance was understood as Christian and individual; a moral and ethical choice and a decision to uphold the values of freedom and democracy made by a few brave individuals; representatives of an 'other Germany' to which the Adenauer administration was eager to lay claim.⁴⁰ Although works were published on other groups, specifically the Churches and the Munich student *Weißer Rose* group, they did not conflict with this line of interpretation.⁴¹ Writing on the resistance was overwhelmingly biographical and although much serious and valuable work was undertaken, much of it tends towards the heroicisation and 'monumentalisation' of the actions of a small number of individuals.⁴² In contrast, the actions of both Communists and Social-democrats received scant attention.

The political function of academic writings on resistance was even more pronounced in the German Democratic Republic than in Adenauer's Federal Republic. The process of historical interpretation was entirely co-opted into the service of the state.⁴³ Scholars drew a direct line from the early and unrelenting struggle of many members of the KPD to the foundation of the East German state. The GDR sought legitimacy in the legacy of the Communist resistance.⁴⁴ Although East German scholars laboured arduously to uncover instances of Communist resistance ignored in the West, the propagandistic intent of these writings rendered them monolithic and stale, their interpretations narrow and almost entirely

³⁸ Kershaw, I., *The Nazi Dictatorship*, pp. 186 - 187.

³⁹ Seid-Toyka, C., 'Der Widerstand gegen den Hitler und die westdeutsche Gesellschaft: Anmerkungen zur Rezeptionsgeschichte des "anderen Deutschland" in den frühen Nachkriegsjahren' in Steinbach, P., & Tuchel, J., (eds.) *Widerstand gegen den Nationalsozialismus*, pp. 572 - 596.

⁴⁰ Hoffmann, P., *German Resistance to Nazism*, (Cambridge, 1988), p. 2.

⁴¹ See Aicher-Scholl, I., *Die weiße Rose*, (Frankfurt am Main, 1955); and Hermelink, H., *Kirche im Kampf*, (Tübingen, 1950).

⁴² See Ritter, G., *Carl Goerdeler und die deutsche Widerstandsbewegung*, (Stuttgart, 1954); Rothfels, H., *The German Opposition against Hitler*, (Chicago, 1949); and, v. Schlabendorff, F., *Revolt against Hitler*, (London, 1948).

⁴³ Kershaw, I., *The Nazi Dictatorship*, p. 185

⁴⁴ Reich, I., 'Das Bild vom deutschen Widerstand in der Öffentlichkeit und Wissenschaft der DDR' in Steinbach, P., & Tuchel, J., (eds.) *Widerstand gegen den Nationalsozialismus*, pp. 561 - 564.

uncritical. Other manifestations of resistance were either ignored or reduced to insignificance. Historians attributed credit only to those groups which could be presented either as Communist or at least sympathetic to the cause; student groups like the *Weißer Rose* or the more left-wing members of the elite conservative resistance groups were viewed with some sympathy. In contrast, the actions of Social-democrats were ignored entirely. Scholarship focused on biographical detail, particularly on Communist personalities whose lives could be recounted without blemish.⁴⁵ With time and the encouragement of the slightly greater liberalism of the Honecker era, a more nuanced and critical body of writing emerged. The historian Margot Pikarski wrote intelligently on the resistance of students to Nazism.⁴⁶ However, historical writing continued to satisfy a propaganda function and East German scholarship was unable to surmount its politically determined shortcomings. A more differentiated and critical approach to the history of resistance in which the leading role of the KPD was brought directly into question, remained political unacceptable.

Despite the inherent conservatism of the Adenauer administration, historical scholarship in the Federal republic of Germany was not limited by the imperatives of government. The growing social liberalism of the 1960s found an echo in the rise to prominence of a new generation of historians more willing, and given the greater availability of sources, better placed to question the historical assumptions of the past.⁴⁷ A key breakthrough in the study of elite conservative resistance was made by two German historians, Hans Mommsen and Hermann Graml. The approach of both men was altogether more critical and independent of mind than anything that been hitherto published. Through the exhaustive analysis of the writings of leading members of the different groups associated with the 20th July 1944 bomb plot, Mommsen and Graml laid plain the ideals and influences which underpinned the

⁴⁵ Reich, I., 'Das Bild vom deutschen Widerstand in der Öffentlichkeit und Wissenschaft der DDR', p. 568.

⁴⁶ see Pikarski, M., *Jugend im Berliner Widerstand: Herbert Baum und seine Kampfgefährten*, (Berlin [East], 1984).

⁴⁷ Rusinek, B., 'Jugend Widerstand und Kriminalität' in Ueberschär, G., (ed.) *Der 20. Juli: Bewertung und Rezeption des deutschen Widerstandes gegen das NS-Regime*, (Cologne, 1994), p. 294.

social, political and foreign policy ideas of the elite, conservative resistance.⁴⁸ Both Mommsen and Graml located the aspirations and policies of the bomb plotters not in the values of Weimar democracy but in the authoritarian and nationalistic formulations of Nazism and the conservative-nationalist milieu. The vision of a future Germany propounded by many of those associated with the conservative resistance was informed by anti-democratic authoritarian and corporatist ideals.⁴⁹ Indeed, proposals for the a post-war settlement were based on the territorial gains won by Nazism and not on the truncated borders of the Weimar Republic.⁵⁰

Wider social and political change also encouraged a changing approach to the study of German resistance. Increasingly, the notion of the 'resistance without the people', popularised through the concentration on elite resistance, came to be questioned.⁵¹ The possibility of both resistance of and resistance by the people won greater academic credence. In a climate characterised by growing social liberalism and, not least, the election victory of Willi Brandt's SPD in 1969, historians turned their attentions to the hitherto almost ignored reactions of the working-class to Nazi rule. In 1974 the left-wing publishing house Röderberg published its 'library of resistance', a collection of twenty local studies of working-class opposition to Nazism. Contemporaneously, the Friedrich Ebert Stiftung -the historical research institute affiliated to the SPD- published a series of studies on the history of working-class resistance in the industrial heartland of the Ruhr.⁵²

The net effect of these studies was to broaden understandings of the scope of resistance

⁴⁸ Mommsen, H., 'Gesellschaftsbild und Verfassungspläne des deutschen Widerstandes', in Schmitthenner, W., & Buchheim, H., (eds.) *Der deutsche Widerstand gegen Hitler*, (Cologne/ Berlin 1966); & Graml, H., 'Die Außenpolitischen Vorstellungen des deutschen Widerstandes', in Schmitthenner, W., & Buchheim, H., (eds.) *Der deutsche Widerstand gegen Hitler*, (Cologne/ Berlin 1966), also both republished in Graml, H., (ed.) *Widerstand im Dritten Reich*, (Frankfurt am Main). Mommsen, H., pp. 14-91, & Graml, H., pp. 92 - 139. All references taken from *Widerstand im Dritten Reich*.

⁴⁹ Mommsen, H., 'Gesellschaftsbild und Verfassungspläne', pp. 86 - 91.

⁵⁰ Graml, H., 'Die Außenpolitischen Vorstellungen des deutschen Widerstandes', pp. 127 - 139

⁵¹ Kershaw, I., *The Nazi Dictatorship*, p. 190.

⁵² see Steinberg, H., *Widerstand und Verfolgung in Essen 1933-45*, (Hannover, 1969); & Klotzbach, K., *Gegen den Nationalsozialismus: Widerstand und Verfolgung in Dortmund 1930-1945*, (Hannover, 1969).

and set new boundaries for the study of resistance itself. For almost the first time in western historiography, due attention was given to the actions of many working-class Germans who confronted the regime. More importantly, these studies illuminated the extraordinary difficulties experienced by many ordinary Germans far from the centres of power; faced with the threat of Gestapo intervention, the clear ineffectiveness of illegal party work and the brutal punishments by those prosecuted for their political stance. Although of indubitable value, some writings tended to heroise the actions of the individual and, indeed, were as culpable of monumentalisation as earlier writings on the conservative elite. Furthermore, the actions of individuals were refracted through the politics, organisation and structure of the SPD and the KPD respectively, paying little heed to the motivation and circumstances of the perpetrators. This allowed for the creation of a myth of mass working-class resistance which has only been questioned in more recent writings on the subject. The actions of the few obfuscated the diffuse reactions of many millions of working-class Germans to Nazism. Working-class conformity and collaboration went largely ignored. Claims were made of the extent, breadth and commitment of working-class resisters which historians writing more recently have demonstrated to be unsustainable.

This initial surge of interest in working-class, left-wing resistance set the timbre for future approaches to the study of German resistance to Nazism and although scholarship continued only to be concerned with the seemingly uncompromised actions of a tiny minority of Germans, a step-change had been made.⁵³ Local and regional studies focused attention on the fates of working-class and student resisters. The study of resistance had ceased to be the concern of the elite few, but now encompassed the actions, behaviour and attitudes of ordinary Germans. However, there was still a reluctance to include certain types of behaviour and certain categories of crime in the growing canon of writing; principled deserters who could still be labelled 'traitors' and Nazi functionaries who gave aid to Jews remained still a taboo and were largely ignored by scholars.

The socialisation of resistance was part of a far broader trend within history towards a more

⁵³ Kershaw, I., *The Nazi Dictatorship*, p. 191.

socialised understanding of the past; in effect a history from below, a history of everyday life. Scholars had also become increasingly aware that the term 'resistance', inextricably associated as it was with the resistance movements of occupied Europe and imbued with a moral and ethical dimension, was ill-suited to the study of German reactions to Nazism, that German opposition to Nazism required an approach which accounted for the peculiarities of the everyday reality of life in the Third Reich. This understanding underpinned the pioneering Bavaria Project. Launched in 1973, the Bavaria Project on Resistance and Persecution in Bavaria 1933-1945 heralded a new era in resistance scholarship. Led by the German historian, Martin Broszat, the Bavaria Project widened the conceptualisation of resistance far beyond any previous understanding of the term. For Broszat and his team of researchers, resistance was understood as 'every form of active or passive behaviour which allows recognition of the rejection of the National Socialist regime or a partial area of National Socialist ideology bound up with certain risks'.⁵⁴ Broszat and his colleagues broke radically with the patterns of analysis and interpretation previously established in historical writings on German resistance to Nazism. Gone was the link with ethical motivation to be replaced instead with an emphasis on the effect of behaviour, particularly in the light of the total claim made by Nazism on the individual.

Peter Hüttenberger, the first director of the project before his replacement by Broszat, provided good reason for this substantive shift from traditional emphasis. Hüttenberger argued that resistance must be understood as 'every form of rebellion against potentially total rule within the context of asymmetrical relations of rule'.⁵⁵ Hüttenberger's point was thus; resistance cannot be considered an absolute but must be understood in the context of the regime against which it occurred and the claims made by that regime of its subjects and citizens. Acts committed without fear or danger in a liberal democratic society have a very different significance and value in the conditions of a dictatorship which does not countenance any manifestation of dissent. Challenges to this system ought to be

⁵⁴ Jaeger, H., & Rumschöttel, H., 'Das Forschungsprojekt "Widerstand und Verfolgung in Bayern 1933-1945"', *Archivalische Zeitschrift*, 73 (1977), p. 214.

⁵⁵ Hüttenberger, P., 'Vorüberlegungen zum "Widerstandsbegriff"' in Kocka, J., (ed.), *Theorien in der Praxis des Historikers*, (Göttingen, 1977), p. 126.

understood as resistance as this is how they were regarded by the Nazi regime. This wide-ranging and open-ended interpretation of resistance opened up the possibility of new avenues of research and academic endeavour.

Broszat and his researchers were not concerned with the experience of resistance amongst the conservative elite but with the examination of the myriad experiences of ordinary Germans during the twelve years of Nazi rule. The six volumes of work which arose from the Bavaria Project represent perhaps the most thorough and complex investigation of the interrelationship between rulers and ruled in Nazi Germany. Through a concentration on the social milieu in which oppositional behaviour arose, Broszat and his team did much to elucidate the everyday experience of conflict and coercion which characterised the experience of the Third Reich. In highlighting many apparently minor acts of rebellion, such as the systematic refusal to give the Hitler greeting, the continued celebration of Catholic festivals despite their prohibition and the preparedness of Bavarian farmers to continue to do business with Jewish cattle traders, previously ignored in the historiography of resistance, the historians working on the Bavaria Project were able to document the clear limitations of the Nazi regime's total claim on German society and the daily struggle of many Germans to strike a balance between conflict and complicity.

The Bavaria Project is without doubt a paradigm in the study of the social history of the Third Reich. It has proved a spark to the investigation of German resistance to Nazism from a specifically societal stand point. Yet the project has also attracted controversy from those who have objected not only to the detachment of an ethical conceived motivation from the actions of perpetrators but also the perceived elevation of innocuous acts characterised by compromise and lacking clear intent with the ostensibly more heroic and clear cut deeds associated with the elite conservative resistance in particular.⁵⁶ The Swiss historian Walter Hofer expounded the fiercest criticism. Hofer was uneasy with what he understood to be a denigration of the moral value of resistance and, more importantly, the seemingly

⁵⁶ Schmäddecke, J., & Steinbach, P., (eds.) *Der Widerstand gegen den Nationalsozialismus*, (Munich, 1995), pp. 1121 - 1122.

contradictory suggestion that resistance might involve levels of collaboration.⁵⁷ In part his criticisms have found resonance in a renewed scholarly interest in elite resistance, particularly since the fall of Communist Eastern Europe, which have once more emphasised the moral character of those involved and the essential heroism of the 20th of July bomb plot.⁵⁸

Much of the criticism attached to the Bavaria Project focused on Broszat's conceptualisation of resistance. Broszat had been the most forceful advocate of a new understanding of resistance, a term which, he contended, was limited in its usefulness and constrained by its traditional moral and ethical implication.⁵⁹ Instead he argued for a new term free from moral and ethical determinants and better suited to the unique conditions of the Third Reich. He justified his stance, arguing 'in every socio-political system and particularly under a form of political domination such as that of National Socialism, what counts politically and historically is above all what is done and what is accomplished, not just desired and intended'.⁶⁰

Broszat had sought a morally neutral term through which the phenomenon of social conflict in the Third Reich might best be explored and this he called *Resistenz*. There is little doubt that much of the controversy the term has attracted has been caused by the linguistic proximity of the two terms and a degree of uncertainty as to the application of Broszat's own formulation.⁶¹ *Resistenz*, in the German infers medicinal immunity. It is very different in meaning from 'resistance' (*Widerstand*). Broszat offered *Resistenz* as an alternative academic approach and, indeed, replacement to resistance. The two were not intended as complimentary.

A failure to recognise this fact has led to much prolonged and often difficult academic debate

⁵⁷ Schmäddecke, J., & Steinbach, P., (eds.) *Der Widerstand gegen den Nationalsozialismus*, pp. 1120 - 1122.

⁵⁸ See Mommsen, H., *Alternative zu Hitler: Studien zur Geschichte des deutschen Widerstandes*, (Munich, 2000); Steinbach, P., & Tuchel, J., *Widerstand in Deutschland 1933-1945: Ein historisches Lesebuch*, (Munich, 1994); von Klemperer, K., *German Resistance against Hitler*, Wette, W., *Retter in Uniform: Handlungsspielräume im Vernichtungskrieg der Wehrmacht*, (Frankfurt am Main, 2002), and most recently, Basset, R., *Hitler's Chief Spy: The Wilhelm Canaris Mystery*, (London, 2005).

⁵⁹ Broszat, M., *Nach Hitler*, (Munich, 1986), pp. 68 - 91.

⁶⁰ Broszat, M., *Bayern in der NS Zeit*, Vol. iv, p. 698.

⁶¹ Kershaw, I., *The Nazi Dictatorship*, p. 199.

and discussion continues as to the adequacy and exact definition of resistance. Certainly, the introduction of *Resistenz* to the lexicon of resistance writing and subsequent debate has brought to light some of the key theoretical weakness and limitations of the 'resistance' approach. Most scholars of National Socialism have now accepted the necessity for a broad and open-ended approach to resistance that accounts for everyday acts of disobedience, and, indeed, this approach forms the theoretical basis of this thesis. However, *Resistenz* as a term has failed to touch the historical imagination and remains largely unused, a fault not of its conceptualisation but of its formulaic weakness. Instead, writers on the subject have increasingly used the word 'resistance' as a catchall, an open-ended term to describe the entire gamut of oppositional forms and behaviour existent in Nazi Germany. This has led to further definitional complications which only very few historians have addressed (see pp. 21 - 23); resistance is not only widely used as the chosen term for the study of the entire field, but also used to describe the most fundamental forms of oppositional action within the area of study.

The Bavaria Project established a bench mark for the social history of the Third Reich. It also acted as a spur to writing on German resistance to Nazism in general. Its influence is to be seen in an large of number of regional and local studies of German reactions to Nazism which have appeared in the intervening twenty years.⁶² Historians have devoted considerable attention to the reactions of different social groups to Nazism, which have done much to elucidate the attitudes and reactions of not only traditional oppositional groups like the Catholics, Social-democrats and Communists, but also other sections of German society once ignored by historical scholarship; particularly women, students and the socially

⁶² See Denzler, G., Fabricius, V., *Christen und Nationalsozialisten*, (Frankfurt am Main, 1995); Mann, R., *Protest und Kontrolle im Dritten Reich: Nationalsozialistische Herrschaft im Alltag einer rheinischen Großstadt*, (Frankfurt am Main, 1987); Mason, T., 'The Workers' Opposition in Nazi Germany', in HWJ (1981), pp. 120 - 137; Peukert, D., *Die KPD im Widerstand: Verfolgung und Untergrundarbeit an Rhein und Ruhr 1933 bis 1945*, (Wuppertal, 1980); & Schmiechen-Ackermann, D., *Nationalsozialismus und Arbeitermilieus: Der nationalsozialistische Angriffe auf die Proletarischen Wohnquartiere in den sozialistischen Vereinen*, (Bonn, 1998).

disadvantaged.⁶³ Without doubt these works, which have focused largely on Germany's large urban centres have added much to the historical canon, helping to establish the extent of the penetration of Nazi ideology.

More recently, writers on the German resistance to Nazism have been challenged by the conclusions of the Canadian historian, Robert Gellately, and the American, Eric Johnson.⁶⁴ Gellately and Johnson are perhaps the leading representatives of a body of mostly English speaking writers, whose work on the function, structure and workings of the Gestapo and the institutions of Nazi terror has led them to question the extent of opposition to Nazism. Through their investigation of German civilian denunciations to the Gestapo, the persecution of German Jews and the representations of Nazi terror in the co-opted Nazi press, Gellately and Johnson have argued for an understanding of Nazi Germany founded on consent rather than coercion. Both explicitly and implicitly, they have questioned the oppositional claims of large sections of German society and have sought to prove widespread popular support for key Nazi policies.⁶⁵ In so doing, the motivations of Germans have once again become the subject of academic scrutiny. Writers on the German resistance have increasingly been called to address these questions, particularly through the treatment of terror.

The German historians Klaus-Michael Mallmann and Gerhard Paul have been the most prolific exponents of this dual approach to the phenomenon of German resistance to Nazism.⁶⁶ Their multi-volume investigation of social reactions to Nazi rule in the Saar is perhaps the most complete and exhaustive study of the interrelationship between terror

⁶³ See Breyvogel, W., (ed.) *Piraten, Swings und Junge Garde: Jugendwiderstand im Nationalsozialismus*, (Bonn, 1991); Drobisch, K., *Wir schweigen nicht! Eine Dokumentation über den antifaschistischen Kampf Münchener Studenten 1942-43*, (Berlin 1983); Peukert, D., *Inside Nazi Germany: Conformity, Opposition and Racism in everyday Life*, (London, 1987); Stargardt, N., *Witnesses of War: Children's Lives under the Nazis*, (London, 2005); and Stephenson, J., *Women in Nazi Germany*, (London 2001).

⁶⁴ Gellately, R., *Backing Hitler, passim*; Johnson, E., *The Nazi Terror: Gestapo, Jews and ordinary Germans*, (London, 1999), pp. 353 - 378; and Johnson, E., & Reuband, K., *What We Knew: Terror Mass Murder and everyday Life in Nazi Germany*, London, 2005), pp. 325 - 345.

⁶⁵ Gellately, R., *Backing Hitler*, p. 8.; Johnson, E., & Reuband, K., *What We Knew*, pp. 344 - 345.

⁶⁶ Published as Mallmann, K., & Paul., *Herrschaft und Alltag: Ein Industrieviertel im Dritten Reich. Widerstand und Verweigerung im Saarland 1935-1945. (Vols. 1-2)*, (Berlin, 1991).

and resistance to have emerged since the Bavaria Project. Through the investigation of the reactions of Germany's social-milieus on the one hand and the structure and exercise of terror on the other, Mallmann and Paul were able to provide a detailed picture of resistance and the reactions of oppositional groups to Nazism. They depict a Saar in which complicity and confrontation were inseparable.⁶⁷ Their work, though, is not without its shortcomings. Mallmann and Paul devoted considerable attention to the efficacy of the Gestapo but were also keen to stress the severe limitations on Gestapo manpower and resources and the consequent importance of public collaboration to successful Nazi rule. However, they paid little attention to the importance of the threat of terror in ensuring conformity and obedience. They also sought to explain oppositional actions through the policy and intent of the SPD, KPD and Catholic Centre Party (Zentrum). In doing so, they have not addressed either the motivation or circumstance of the individual but have instead implied an unproven and unmitigated political motivation.⁶⁸

The need to reach an adequate definition and conceptualisation of resistance has continued to inform academic debate. Writing in the mid-1980s, the German Historian Detlev Peukert and the Austrian, Gerhard Botz, both advanced a scalar interpretation of resistance.⁶⁹ In the case of Peukert, resistance extended from 'nonconformist behaviour' through 'refusal' and 'protest' to 'resistance'.⁷⁰ Botz advocates a similar model, linking 'deviant behaviour' through 'social protest' to 'political resistance'.⁷¹ Although both models are superficially attractive, they pose the historian considerable problems in their application. Both models require subjective judgements on the perceived value of different types of action, detached not only from the motivation and circumstance of the individual as well as ignoring the scope for possible action afforded to the individual. This problem is made more acute through the insistence of both Peukert and Botz that their most fundamental category of action be

⁶⁷ Mallmann, K., & Paul, G., *Herrschaft und Alltag* (Vol. 1), *passim*.

⁶⁸ Mallmann, K., & Paul, G., *Milieus und Widerstand*, pp. 42 - 460.

⁶⁹ Botz, G., 'Methoden und Theorieprobleme der historischen Widerstandsforschung' in Konrad, H., Neugebauer, W., Firnberg, H., Marek, B., & Steiner, H., (eds.) *Arbeiterbewegung - Faschismus - Nationalbewußtsein*, (Vienna, 1983). pp. 341 - 363; & Peukert, D., *Inside Nazi Germany*, pp. 82 - 85.

⁷⁰ Peukert, D., *Inside Nazi Germany*, pp. 83 - 84.

⁷¹ Botz, G., 'Methoden und Theorieprobleme der historischen Widerstandsforschung', p. 342.

understood as a principled and conscious rejection of the regime.⁷² Secondly, it is unclear where one category ends and the other should begin. Indeed, the chosen formulations might themselves be somewhat anachronistic, better suited to liberal western democracy than the conditions of the Third Reich. Did Germans really consider themselves to be engaged in 'deviant behaviour' or 'refusal'? Thirdly, Peukert and Botz both make flawed use of 'resistance' as a category within resistance. Ultimately, stimulating as both approaches are, they fail to satisfy a theoretical model for resistance.

Given the definitional arguments surrounding resistance, it is unsurprising that some historians have argued for the utilisation of an altogether less divisive and more morally neutral term to cover all forms of behaviour.⁷³ This would then allow resistance to be used as a category of fundamental action and behaviour within the wider field of study, contingent with the moral and absolute connotations with which it has traditionally been associated. Opposition suggests itself as a possible alternative but whether the implication of the term can be successfully squared with the facts of the matter is another question. Although opposition can be partial and complex, if the term is to describe the whole, can it realistically be descriptive of actions which involved complicity or were mitigated by another circumstance? Are we not replacing 'resistance' with a term equally open to question and argument? Ian Kershaw has suggested the use of dissent as an all embracing term for the plethora of oppositional forms and actions existent in Nazi Germany.⁷⁴ Certainly, dissent is a morally neutral term and appears well suited as a vehicle for the investigation of oppositional actions in Nazi Germany. Both the attempt to assassinate Hitler and the illegal slaughter of cattle and livestock can both be understood without difficulty as different forms of dissent.⁷⁵ More importantly perhaps, definitionally dissent is not an absolute but rather a response. Dissent, as a vehicle for scholarly investigation, can be understood as a partial or incomplete phenomenon, explaining the mixed and myriad reactions of many Germans to

⁷² Peukert, D., *Inside Nazi Germany*, p. 84.

⁷³ Kershaw, I., *The Nazi Dictatorship*, p. 207.

⁷⁴ Kershaw, I., *Popular Opinion and Political Dissent in the Third Reich: Bavaria 1933-1945*, (Oxford, 1983), p. 3.

⁷⁵ Kershaw, I., *The Nazi Dictatorship*, p. 207.

Nazism. Moreover, if dissent is employed as an academic model in this circumstance, it does by definition encompass and consider the laws, strictures and claims of the Nazi state. Importantly, dissent also implies the air of sedition and the seditious with which the Nazi regime itself characterised and ultimately condemned and prosecuted oppositional actions of every form. Dissent offers a clarity of conceptualisation missing in the employment of other more contentious terms. Indeed, it also allows for a clear explanation of the mass of conflicting and compromised actions and motivations which can blur almost seamlessly but by no means linearly into one another. For these reasons, and the appropriateness of the term to this thesis, this thesis will describe the totality of oppositional actions as dissent and not 'resistance', 'opposition' or any other such term.

Milieu

The idea of milieu as a descriptive model has considerable historical pedigree.⁷⁶ It is an abstract concept and is not without its detractors who view it as woolly, lacking clear parameters and somewhat folksy.⁷⁷ Milieu, as an investigative and analytical model was developed by German political sociologists keen to explain voting patterns and party political loyalties in both Wilhelmine Germany and the Weimar Republic.⁷⁸ Sociologists pointed to deep-rooted political loyalties which transcended traditional class divisions and sought to explain these through the existence of tight-knit cultural and social bonds created through engagement in the organisations and institutions established by the dominant political formations; these they called milieux.⁷⁹ The first concrete application of milieu as a basis for the historical investigation of modern German history was made by the German

⁷⁶ Mallmann, K., & Paul., G., *Milieus und Widerstand*, p. 17.

⁷⁷ Mallmann, K., & Paul., G., *Milieus und Widerstand*, pp. 17 - 18.

⁷⁸ Walter, F., & Matthiesen, H., 'Milieus in der modernen deutschen Gesellschaftsgeschichte: Ergebnisse und Perspektive der Forschung' in Schmiechen-Ackermann, D., (ed.) *Anpassung, Verweigerung und Widerstand: Soziale Milieus, politische Kultur und der Widerstand gegen den Nationalsozialismus im regionalen Vergleich*, (Berlin, 1997), p. 46.

⁷⁹ Walter, F., & Matthiesen, H., 'Milieus in der modernen deutschen Gesellschaftsgeschichte: Ergebnisse und Perspektive der Forschung', p. 47.

political scientist, M. Rainer Lepsius, in 1966.⁸⁰ Lepsius defined milieu as a community of people bound by communal organisations and experiences which reinforced a particular mindset, represented by its own political party and with a keen and developed sense of its own identity.⁸¹ He argued that the extraordinary stability of German party political formations between the foundation of the German Empire and the onset of economic depression in 1929 could only be explained through the solidity and the strength of the individual milieux bound to each of the dominant political parties.⁸²

It is clear that the social groupings of both the Wilhelmine and Weimar period were bound not by any single factor but rather they were entities joined by a multiplicity of similar experiences, ideas and aspirations that do not readily lend themselves to a class based or purely political investigation. Milieu, as defined by Lepsius, appears a worthy descriptive term. Although each milieu was different, the institutions, organisations of social cohesion and representation were similar. These groupings were different manifestations of the same phenomenon. Each social grouping possessed its own educational and cultural establishments which could provide the individual with a total experience. For many Germans, life was lived entirely within a specific milieu. It has been suggested that 1914 was the high point of milieu formation and that thereafter the centrality of milieu to German social development waned.⁸³

Milieu quickly established itself as an investigative model with social historians.⁸⁴ The polarisation of Weimar political life and the seemingly intrenchable fragmentation of German society was in part explained through the introspection of Germany's social milieux and the extraordinary loyalties they engendered which prevented successful political co-operation with other groups.⁸⁵ Milieu has also proved invaluable to historians seeking to explore the

⁸⁰ Lepsius, M., 'Parteiensystem und Sozialstruktur: zum Problem der Demokratisierung der deutschen Gesellschaft' in Ritter, G., (ed.) *Deutsche Parteien vor 1918*, (Cologne 1973), pp. 56 - 80.

⁸¹ Lepsius, M., 'Parteiensystem und Sozialstruktur', p. 62.

⁸² Lepsius, M., 'Parteiensystem und Sozialstruktur', *passim*.

⁸³ Ritter, A., *Arbeiterkultur*, (Königsberg, 1979), p. 7.

⁸⁴ Schmiechen-Ackermann, D., *Nationalsozialismus und Arbeitermilieus*, p. 47.

⁸⁵ Schmiechen-Ackermann, D., *Nationalsozialismus und Arbeitermilieus*, p. 47.

reactions of German society to the challenges of Nazism.⁸⁶ Given the claims of milieu loyalties, the behaviour of Germans after 1933, in particular the negative responses of individuals to the challenges of Nazism, must be located in the traditions, politics and sociology of the milieu in which the individual was raised. This thesis will draw heavily on a tradition of milieu based investigations of social responses to Nazism, first established in treatments of working-class dissent written in the 1960s and made paradigm in the various volumes of the Bavaria Project.

However, the investigative model set out by Lepsius cannot be applied to either the Weimar Republic or the Third Reich without moderation or qualification. Social and political changes affected milieu formation. Lepsius had identified four milieux: one Conservative, one Liberal, one Catholic and one working-class (Social-democratic).⁸⁷ However, Germany's social milieux were exposed to considerable pressures during the final years of the Weimar Republic and underwent change as new social and political imperatives demanded novel and extraordinary responses of Germans, both individually and collectively. Of the four milieux identified by Lepsius, only the Social-democratic and Catholic milieux still existed in 1933. The Liberal and Conservative milieux had collapsed in the face of the extraordinary social and political challenges of the final years of the Weimar Republic. Their institutions, affiliate organisations and, ultimately, their identity had been subsumed by the Nazi behemoth.⁸⁸ Importantly, a distinct Communist milieu had also developed in competition with that of Social-democracy, violently splitting the once unified working-class milieu. Lepsius also imbued his conceptualisation of milieu with a moral dimension, making reference to a shared moral mindset.⁸⁹ However, the advantages of this approach are unclear, and the idea of a shared morality is difficult to substantiate. For these reasons this particular line of interpretation will not be pursued. This thesis is concerned only

⁸⁶ Paul, G., 'Zwischen Traditionsbildung und Wissenschaft: Tendenzen, Erträge und Desiderata der lokal- und regionalgeschichtlichen Widerstandsforschung' in Schmiechen-Ackermann, D., (ed.) *Anpassung, Verweigerung und Widerstand*, pp. 35 - 36.

⁸⁷ Lepsius, M., 'Parteiensystem und Sozialstruktur', p. 64.

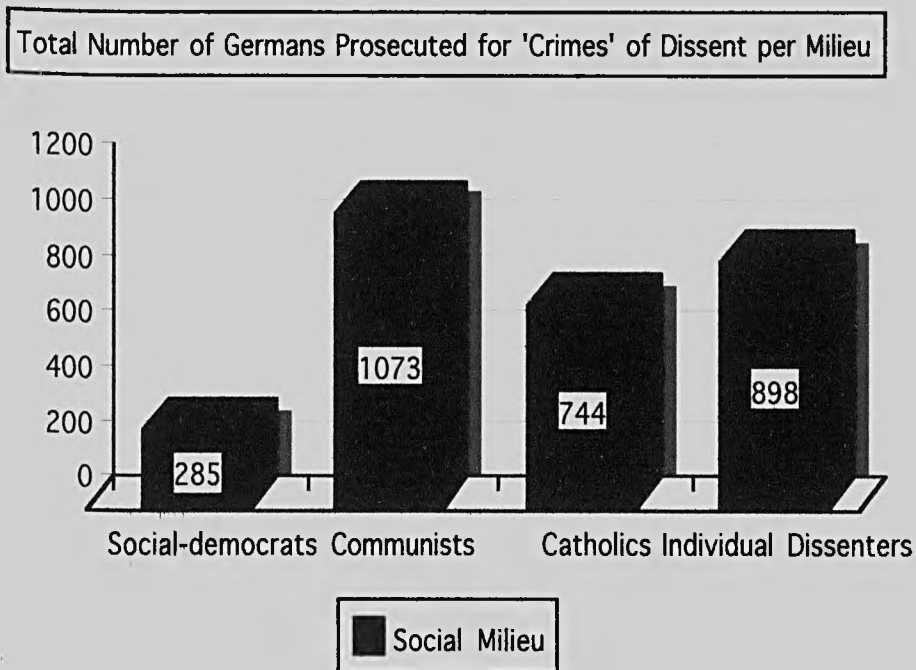
⁸⁸ Schmiechen-Ackermann, D., 'Eine Bilanz der Widerstandsforschung aus regionaler Perspektive' in Schmiechen-Ackermann, D., (ed.) *Anpassung, Verweigerung und Widerstand*, p. 16.

⁸⁹ Schmiechen-Ackermann, D., *Nationalsozialismus und Arbeitermilieus*, p. 42.

with the three social milieux clearly existent in 1933; the Catholic, Communist and Social-democrat milieu.

The Catholic, Communist and Social-democratic milieux did not survive the first months of Nazi rule either unscathed or unchanged. All three were greatly diminished.⁹⁰ The political, social and cultural organisations of both the Social-democrat and Communist milieux were quickly prohibited, dismantled or incorporated into new or existing Nazi associations. The political leadership of both communities were subjected to persecution, arrest and punishment. Those individuals resolved to confront Nazism were forced to live shadowy existences, replete with risk and danger. In certain cases co-opted SPD and KPD cultural and social organisations continued to provide a fulcrum for communal solidarity and political discussions.⁹¹ However, as time wore on the political function of such organisations waned.⁹²

Figure 1



⁹⁰ Walter, F., & Matthiesen, H., 'Milieus in der modernen deutschen Gesellschaftsgeschichte', p. 60.

⁹¹ Schmiechen-Ackermann, D., *Nationalsozialismus und Arbeitermilieus*, pp. 501 - 514.

⁹² Schmiechen-Ackermann, D., *Nationalsozialismus und Arbeitermilieus*, pp. 639 - 643.

The majority of Social-democrats and Communists were unwilling to take the risks inherent in attempts to preserve vestiges of their milieu and instead sought an accommodation with Nazism.⁹³ As we shall see in later chapters, illegal political organisation became the preserve of party die-hards unable to accept Nazi rule. The Catholic milieu fared somewhat better. The Church continued to provide an institutional focus for German Catholics. The Catholic Church was even able to retain some influence in both education and health provision. Initially at least, Catholic youth groups and sporting associations were also allowed to continue with their activities, although they were subjected to increasing pressure to close. However, by 1937 the remaining Catholic youth and sports groups had been either forcibly dissolved or 'voluntarily' co-opted into Nazi organisations.⁹⁴ Increasingly, the Catholic milieu was reduced to its sacral core, its members demonstrated their solidarity through church attendance and the public observation of Catholic practices.⁹⁵

By 1941, the Social-democrat milieu, so much as it still existed, mostly consisted of informal associations of trusted former political comrades and friends, although limited attempts were occasionally made by some Social-democrats to establish a more formal party structure. The underground organisations of the KPD had endured Nazi rule with somewhat more success, although at tremendous personal cost to many of its members. Illegal party structures still existed in many of Germany's largest cities. Indeed, in certain areas, KPD underground cells were backed by underground branches of the Communists charity organisation Red Help (*Rote Hilfe*), which provided aid to the families of Communists interned in concentration camps or executed at the regime's behest. The Church continued to exert considerable influence over the Catholic community much to the chagrin of many leading Nazis and was able to mobilise large numbers of German Catholics in the defence of its interests, despite the considerable and increased threat of persecution.⁹⁶ Perhaps more importantly, it was able to provide an alternative and enduring set of values to those

⁹³ Burleigh, M., *The Third Reich*,

⁹⁴ Rau-Kühne, C., *Katholisches Milieu und Kleinstadtgesellschaft: Ettlingen 1918- 1939*, (Sigmaringen, 1991), pp. 380 - 382.

⁹⁵ Walter, F., & Matthiesen, H., 'Milieus in der modernen deutschen Gesellschaftsgeschichte', p 63.

⁹⁶ Kershaw, I., *The Nazi Dictatorship*,

of Nazism in a time of crisis. By the winter of 1944/45 the three milieux considered were but shadows of their earlier incarnations. However, it is testament to the strength of the three milieux, their informal and underground structures, and the values they represented, that despite twelve years of Nazi rule and persecution they were able to re-establish themselves with such speed after the German surrender on May 8th 1945.

Of course, it would be a folly to suggest that the influence of the three milieux was uniform. Milieu was experienced in different forms and to varying extents. As we shall see, certain individuals had led lives defined and shaped by their engagement with their respective milieu. Invariably, such persons struggled to come to terms with the new Nazi order. Others had only tangential experience of their milieu and were better placed to adapt to life in Hitler's Germany. The influence of milieu values and traditions varied considerably and was by no means irrevocable. Many Germans were able to escape the imprint of their milieu entirely. However, as this thesis will demonstrate, those Germans who committed 'crimes' of dissent bore to differing degrees the imprint of their milieu. The influence of the three remaining milieux on the perpetrators of 'crimes' of dissent committed between 1941 and 1945 will form the investigative basis of this thesis. Through the investigation of background and milieu-engagement it will be possible to shed light on the motivations and thought processes of Germans, who in part or entirely, defied Nazi ordinance and showed forms of dissent.

Scope and Methodology

This thesis is based on the close examination of three thousand court and Gestapo records. The survey consists of three separate sets of files, each one consisting of one thousand records. The three individual samples are taken from archive holdings on the People's Court, the Munich Special Court and the Düsseldorf Gestapo respectively. The records concern cases of political 'crimes' perpetrated by Germans and prosecuted by the courts and the police between 1941 and 1945. The records of the People's Court were first published as a microfiche edition in 1993 under the title *Widerstand als Hochverrat*. Work

was started on the collection shortly before the collapse of Communism in Eastern Europe and the editors were able to capitalise on the opening of the archives of the Eastern Bloc which had previously been closed to western historians. The collection, comprising over 70,000 pages of legal documentation, includes records stored in archives in Prague, Warsaw, Moscow and the German Democratic Republic as well as the German Federal Republic and Austria. In total *Widerstand als Hochverrat* contains the court files of the trials of over 6,000 Germans, Austrians and Sudeten Germans heard mostly before the People's Court but also the Supreme Court and the Supreme Military Court. The co-editor Jurgen Zarusky has described *Widerstand als Hochverrat* as the:

'Most comprehensive collection of sources in the history of domestic opposition to National Socialism... the starting point of this edition is not the issue of a particular group or specific region but rather the definition of political resistance that aimed to overthrow the regime, as defined by the regime in the form of high treason.'⁹⁷

The majority of cases included in the collection concern trials relating to charges of Treason and Conspiracy to Commit High Treason. A much smaller number of cases of Defeatism and Undermining the Fighting Strength of the German Nation are also included.

The People's Court was responsible for the trial of what the Nazi regime regarded as the most serious cases of dissent. These particular and extreme cases of dissent find their counterbalance in two further sets of records: those of the Munich Special Court, housed in the Bavarian State Archive in Munich; and those of the Düsseldorf Gestapo, stored in the Düsseldorf State Archive. The Munich Special Court was responsible for the trial of less serious cases of dissent in predominantly rural Upper Bavaria. The Bavarian State Archive holds the documentation of 10,000 trials in which over 18,000 defendants were arraigned before the judges of the Munich Special Court. Approximately half of the trial documents pertain to cases heard before the Court during peace time. The majority of cases

⁹⁷ Zarusky, J., & Mehringer, H., (eds.) *Erschließungsband zur Mikrofiche-Edition, Widerstand als Hochverrat: 1933-1945: Die Verfahren gegen deutsche Reichsangehörige vor dem Reichsgericht, dem Volksgerichtshof und dem Reichskriegsgericht*, (Munich, 1998). p. 5.

considered concern less serious acts of dissent: Malice, Grumbling and Listening to foreign radio broadcasts. The holdings also include examples of the trial of certain 'crimes' which fall outside of the perimeters of this study. High profile criminal cases were heard before the Special Courts and these had to be excluded from the sample. Foreign workers were also tried before the Special Courts for a variety of offences including murder, theft and the pursuance of proscribed relationships with Germans. These too had to be excluded from the sample in order that only the trials of Germans prosecuted for dissent were considered.

The records held by the Düsseldorf State Archive constitute the most complete set of Gestapo records to have survived the war. Over 72,000 interrogation, surveillance, prosecution and case files collated by the Düsseldorf Gestapo are held by the Düsseldorf State Archives. The files cover the entirety of Gestapo jurisdiction: from the persecution of political opponents and those Germans suspected of contravening new laws criminalising all forms of political activity; to persecution and deportation of Düsseldorf's Jewish Community and the punishment of foreign workers. Only one third of the records concern the prosecution of Germans suspected of committing 'crimes' of dissent. In each instance, a sample of one thousand records was taken from the total number of eligible files, namely cases of dissent perpetrated or first discovered and prosecuted between 1941 and 1945. In the case of the Düsseldorf Gestapo records, certain records are catalogued according to the type of 'offence', others are grouped according to the political beliefs of the perpetrator. Each of these separate group of records are filed chronologically. A list was compiled of all eligible files. The total number of eligible files was then divided by the sample size (one thousand) to arrive at a proportional percentage of the total record holdings. The list was then systematically worked through looking at a proportional and representative number of records, in this case every fifth.

The Munich Special Court records are catalogued chronologically and did not present the same logistical complications. The trials of foreign citizens and the trials of Germans for 'criminal' offences had to be excluded from the file collection in order to arrive at an accurate sum of suitable trials. The total number of eligible records was then divided by the size of

the sample (one thousand records). Thereafter, the records were worked through chronologically, looking at a representative number of records (in this case every third), ensuring that each of the four years considered was included in the survey. Exceptions to this rule of work did arise. In certain cases it was both necessary and judicious to include the case histories of all the defendants of mass trials which helped to elucidate the origins of certain categories of 'crimes', particularly the communal listening of foreign radio broadcasts. The files of the People's Court as published in the *Widerstand als Hochverrat* collection are presented (but not catalogued) chronologically. All hearings before the People's Court concerned the trials of political offences, which negated the need to list all the eligible cases separately, although once again the total number of individual cases was divided by the size of the sample. In the event, it was necessary to look at the trial of two out of every five defendants brought to answer charges before the People's Court between 1941 and 1945.

Once the relevant data had been collated and entered into a database, it was then necessary to categorise the three thousand individuals surveyed according to their milieu, if indeed they could be thus categorised. In many cases this could be done without difficulty. Many of the individuals possessed long histories of clear political agitation and had continued to demonstrate political support for a specific ideology after 1933. Indeed, in many cases as we shall see in later chapters, the 'offence' itself possessed a specific political dimension that left no doubt as to the perpetrators political loyalty. However, many cases were not so clear cut. How should the occasional SPD voter who later listened to the broadcasts of the BBC be categorised? Should they be regarded as a Social-democrat or as an individual unattached to a specific milieu? In such circumstances it was necessary to ask a series of questions of the available data in order to discern the political loyalties, or not, of the individual: Had the individual exhibited an interest in the politics of the milieu before 1933? Indeed, had the individual ever regarded themselves as a Social-democrat? How great was their involvement in the communal organisations of the Social-democrat milieu before the Nazi take-over? Had the individual exhibited signs of loyalty to that milieu after 1933? For instance, did they meet with politically engaged colleagues to discuss political

affairs? To what extent had they come to terms with Nazi rule? Did the offence itself have a specific political dimension? If so, was this intentional? If, in the final analysis, the majority of questions had been answered in the positive, then the perpetrator was to be categorised as a Social-democrat. If not, then they were classified as an individual unaffiliated with a specific milieu. A similar line of questioning was used to determine the extent of Catholic belief and identity. In assessing the influence of milieu on the individual it was necessary to determine whether the individual was a practising Catholic or not, and, specifically, whether Catholicism shaped their upbringing and informed their perception of the wider world? There might indeed be cases in which a milieu has been falsely ascribed to an individual but every effort has made to prevent this eventuality.

Making use of this statistical data, this thesis will build upon the insights and breakthroughs achieved by Broszat and his research team but will seek to extend and clarify the assumption quoted above, that under a system of rule such as National Socialism what was done and its effect are of greater historical significance than what was desired and intended.⁹⁸ Adopting the broad definition of resistance, as each and every manifestation of dissent (and a conceptualisation of dissent based on the regime's 'total claim' on German society and the manifestation of that claim in the prosecution of individuals for supposedly political 'offences'), this thesis will explore - on a different basis to any undertaken thus far - the social milieu from which oppositional actions emanated and the motivation for those actions. The thesis will seek to tackle the following questions through the rigorous and detailed analysis of the three different sets of records of individual cases of dissent mentioned above:

- 1) Was political motivation a key factor in persuading individuals to become involved in oppositional actions?
- 2) Were oppositional forms of action 'circumstantial' - that is, a product of often spontaneous, random reactions - rather than premeditated behaviour?

⁹⁸ See p. 17.

- 3) Did they follow from any known specific experiences and a period of gestation?
- 4) Were those involved in such actions socially isolated 'outsiders' or were they part of a distinctive social milieu or political subculture?
- 5) Are sociological and geographical patterns of dissent discernible?

The close analysis of the three individual file samples should lead to empirically founded answers to the questions posed. The rich material contained in the files has enabled a construction of the social and political profile of three thousand individuals prosecuted for dissent. From these, some tentative suggestions should emerge about the extent of atomisation in a 'totalitarian society', even in its most extreme phase. It will hopefully establish a threshold where spontaneous oppositional action, the product of circumstance, passes into motivated rejection of the entire system, the product of commitment, thus posing a tentative challenge to challenge to Broszat's understanding of '*Resistenz*' and the type of scalar model of nonconformist behaviour put forward by both Peukert and Botz.⁹⁹

Source Material

The three sets of files outlined above form the great bulk of materials used. There is little doubt that the records are a rich source of information, providing detailed information about the lives of Germans prosecuted for their opposition to Hitler which would otherwise be almost impossible to gather and certainly not on this scale. Information pertaining to the births, deaths, occupation, educational attainment, political affiliation and a wealth of other particulars relating to the social, political and cultural lives of the the three thousand individuals would have to have been extrapolated from a variety of disparate sources. The quality and extent of the records in each sample varies enormously. They are far from uniform. Certain records stretch to hundreds of pages, others are much shorter and are only a few pages in length. The court records consist of an indictment, a record of the trial and in certain cases

⁹⁹ See pp. 22 - 23.

notice of punishment. In a small number of cases records of interrogation and confiscated literature are also available to the historian.

The files compiled by the Düsseldorf Gestapo on individuals suspected of oppositional activity are more varied. The records contain a variety of documents of differing value to the historian. Those files which are most detailed contain witness statements, interrogation notes, confessions, summaries of investigative work and details of police procedure as well as written evidence or notes on other proofs. However, the files are of variable quality. Not all records contain the documents listed above. Some are altogether more sparse. The details recorded in the files and the size of the records are dependent on several factors: firstly, the availability of evidence to the Gestapo; secondly, the seriousness with which the Gestapo regarded the case; and thirdly, the time available to the investigating officers. Despite the substantial differences in the depth of auxiliary information contained in each file and the extent of corroborative evidence, certain essential details were recorded in each file without exception and it is this information, pertaining to the social and political backgrounds of the individual, which forms the basis of this thesis.

The exigencies of the war also affected the ability of both the courts and the Gestapo to compile thorough and comprehensive records. The records of cases prosecuted in the final years of the war were altogether more brief and less detailed than those from 1941 but this does not detract from their intrinsic value. They still contain the necessary information for the reconstruction of the lives of those Germans prosecuted for the perpetration of acts of dissent. The three sets of records provide the historian with considerable insight into the practices of the courts and the Gestapo, however their use is replete with possible difficulties. The records must be treated with considerable circumspection. We must remember that the records were compiled by the repressive agencies of a dictatorial state, intent on locating criminality and wrongdoing in working-class populations. They are, to a great extent, self-justificatory, hyperbolic and, in their treatment of fact, often fraudulent. Both the Gestapo and the Courts were also blinded by ideological imperatives which led them to seek evidence of criminality predominantly within working-class populations. No doubt

this has had some bearing on the final conclusions of this thesis.

Operating in a system of government which was characterised by competing organisations and structures, both the courts and the police were keen to demonstrate their effectivity, success and ideological zeal in the persecution of perceived enemies and, in doing so, prove themselves indispensable to Nazi rule. The Gestapo routinely sought to exaggerate the scale and threat of the often mundane actions of Germans suspected of oppositional activity. Similarly, the courts made hyperbolic and often spurious claims of defendants in order to justify the brutal punishments demanded by senior government figures and Hitler in particular. The actions of the Gestapo and the courts were also shaped and informed by the radicalisation of Nazi policy during the war. Professional standards, such as they existed, declined dramatically as both the Gestapo and the courts sought to realise the regime's ideological goals. Both were complicit in the prosecution and condemnation of supposed enemies who had done little to warrant the charge. Perhaps most significantly, the confessions on which both the prosecution cases formulated by the Gestapo and the verdicts of jurists were founded were extracted under torture. All evidence was also refracted through a police and legal system that demonstrated little propensity to impartiality.

However, we ought to remember that the process of prosecution and trial in Nazi Germany was rooted in a form of law. In each circumstance, an 'offence' proscribed in a written legal code had been committed. Although trial before the Nazi courts might have possessed elements normally associated with the politicised show trial of innocents, even before the feared People's Court, trials in Nazi Germany were not show trials in the truest sense of the term. An element of truth underpinned all charges, even if the claims made by the State Prosecutor of the fact of the 'crime' were exaggerated. Claims of conspiracy and exaggerated effect were belied by the evidence presented to the court. The hyperbole of jurists and prosecutors alike is readily identifiable and poses few problems to the use of the files. Perhaps most importantly, we ought to show considerable circumspection when dealing with all information extracted under process of threat or torture. Yet even in this

circumstance, it would be injudicious to doubt the validity and veracity of much of the information contained in the files. Information gleaned through the use of violence, threat and torture is not necessarily spurious. The Gestapo did not unnecessarily seek to elicit false confessions but rather to reveal the extent of a 'crime'. More significantly, too great an emphasis on this barbaric practice obscures the importance of investigative police work to Gestapo practice. Finally, that some cases ended in acquittal should lead us to question the presumption that torture was invariably used to provide incriminating and ultimately false confessions.

We should not unnecessarily doubt the veracity of the substantial bulk of the information contained in the files. The Nazi authorities had no interest in the deliberate falsification of the details of defendants lives. Much of this information was freely available to the authorities. Indeed, the records of the Düsseldorf Gestapo indicate that officers exercised considerable care in the collation of evidence. Proofs of address, occupation and schooling were often volunteered from school and municipal offices. Evidence of social dysfunction and trauma could not only be elicited through the hearsay of family and friends but was also provided by an established system of welfare and social provision. Fundamentally more incriminating proof of previous political engagement was noted in detail in the archives of the major political parties of the Weimar Republic which had fallen into the hands of the Gestapo shortly before the Nazi seizure of power. Similarly, records of previous criminality or illegal political activity were stored in courts, police stations and penal institutions throughout the Reich. Information from this variety of sources was cross referenced with considerable care to provide an accurate, if damning, portrait of the accused.

To add balance to the otherwise exclusive use of the documentation of repressive institutions, this thesis will also make limited use of biographical and autobiographical writing. Sadly, few ordinary Germans have committed their experiences of prosecution at the hands of the courts and the Gestapo to paper. More significantly, many of the perpetrators of more serious 'crimes' of dissent did not survive the war and fell victim either to the execution of a capital sentence or to the deliberate policies of starvation and extermination

through labour pursued in the camps and prisons. The employment of biographical and autobiographical writings is, therefore, by necessity limited. It would have been impossible to have matched the number of records with writings from the perspective of those prosecuted. Biographical and autobiographical writings also present problems to the historian. A number of accounts are hagiographical and impossible to verify. This is entirely unsurprising given the political division of Germany in 1949 and its consequent social and cultural ramifications. However, the careful and selective use of such writings adds much needed colour and detail to the overall survey and provides a desirable counterbalance to the labels, clichés and characterisations of Nazi persecution. Collectively, these materials allow for the careful reconstruction of childhood, employment, political engagement and home life and provide a context for the correct examination of the actions and motivations of Germans prosecuted for the perpetration of 'crimes' of dissent.

Chapter Outline

This dissertation is divided into two distinct halves. The first will explore the parameters of Nazi terror, paying particular attention to the complex relationship between the legal system and the police and charting the development of the terroristic measures which, in many ways, came to characterise Nazi rule, especially after 1941. Throughout this section the importance of deterrence to judicial and police procedure and practice will be emphasised. The outcome of historical research on both the Gestapo and the police will be dealt with in the relevant chapters. The second half consists of a thorough analysis of the three thousand files on a milieu basis; reconstructing cases which demonstrate salient trends and tying together both the unique and the generic to elucidate the motivations of Germans prosecuted for committing 'crimes' of dissent. It will explore the influence of milieu on individuals, their decision making process and, ultimately, their 'crime'.

Chapter one will broadly outline the extent of Nazi terror and in doing so provide a framework within which the institutions of legal, and indeed, specialised terror operated. It will

show that terror existed both as fact and potential on a scale belied by concentration on the police and courts alone, and was exercised through a variety of means. It will argue that the formalistic and obvious terror of the police and the courts found an echo in the activities of the party and other institutions of state. It will demonstrate that although many Germans had little experience of Nazi terror, reminders of the regime's capacity for violence and discrimination were clearly apparent; in the visceral brutality which founded the regime and the occasional explosions of mob and state violence thereafter; and in exclusive social policy which punished those who did not acquiesce to Nazi rule. The institutions of the German state and the organisations of the party conspired to create a comprehensive terror nexus. Nazism created an atmosphere of menace and intimidation through which it was made clear that oppositional actions would result in brutal punishment.

The second chapter will chart the development of the Gestapo from its formation, demonstrating how early changes to police practice and jurisdiction paved the way for the escalation of terror after 1941. It will focus on the expansion of police powers, paying due attention to the gradual granting of the extraordinary freedoms which enabled the Gestapo to function free from bureaucratic restraints and legal and restrictions. The chapter will argue that the Gestapo was a highly effective and pro-active organisation which was able to overcome with relative ease constraints on both manpower and resources. Importantly, the narrative will focus on the creation of a widely perpetuated and believed myth of Gestapo omnipotence which was as important to the maintenance of Nazi governance as the actual actions of the police.

Chapter three is devoted to the Courts of Nazi Germany and will focus specifically on the Special Courts and the People's Court, the central institution created by the state to deal with cases of high treason. The chapter will locate the courts of Nazi Germany firmly within the Nazi terror nexus. It will examine the rapid withdrawal from established legal norms and practices and the willingness of German jurists to comply pliantly with the political demands of Nazism. The 'prerogative' - that is the arbitrary, politicised - character rather than the 'normative' - legalistic - character of German courts under Nazism will be emphasised

throughout.¹⁰⁰ Considerable attention will be given to the role of the courts during wartime, particularly after 1941, under the tenures of Minister of Justice, Otto Thierack, and People's Court President, Roland Freisler, when legal terror reached its high point. The notion of justice as deterrence will also be explored in detail. The propaganda value and purpose of trial will be subjected to scrutiny to demonstrate the central role of the courts in a society marshalled through the threat of violence and punishment.

The second half of this thesis is given over to the presentation of the three milieux most antagonistic to Nazism and from which most acts of dissent stemmed. During the course of these four chapters the results of the survey of the three thousand files will be examined in depth. The four chapters will follow a broadly similar structure; the first three chapters will look at the cases of Social-democrats, Communists and Catholics respectively. The fourth chapter will examine the cases of Germans who had no bonds to either of these three milieux, being people who were apolitical, or professed no overarching religious affiliation or who were raised in circumstances in which no guiding political, social or cultural influences were apparent.

¹⁰⁰ See Fraenkel, E., *Der Doppelstaat*, (Hamburg, 2001), passim. Fraenkel's analysis of the structure and practice of the Nazi state was first published in 1940 and is one of the most cited works on the legal and administrative structure of the Third Reich. Fraenkel characterised the Nazi Germany as a 'Dual State' governed by competing 'normative' and 'prerogative' institutions. The 'normative' institutions belonged to the Normative State (*Normenstaat*) and comprised of the traditional government ministries and mechanisms of administration. The Prerogative State (*Maßnahmenstaat*) existed in parallel to the Normative State and consisted of newly created Nazi agencies freed from bureaucratic and legal constraints. The terroristic institutions of the Prerogative State were intended to maintain Nazi rule through extra-legal practice and procedure. Ultimately, they were not accountable to the institutions of the state but Nazi ideology and the person of Hitler. The Prerogative State assumed an ever greater importance to Nazi government. Over a period of time the 'prerogative' institutions of the Nazi state subsumed the function and jurisdictions of the Normative State. Niklaus Wachsmann has convincingly argued that the 'Dual state' as interpreted by some historians fails as a descriptive model (Wachsmann, N., *Hitler's Prisons: Legal Terror in Nazi Germany*, pp. 380 - 381). Many of the nuances in Fraenkel's original analysis have been ignored by historians. Fraenkel made clear that he regarded only certain courts, particularly those with jurisdiction over civil law, as part of the Normative State. Other Courts such as the People's Court and the Special Courts which willingly served the Prerogative State, were identified by Fraenkel as belonging to the Prerogative State. Wachsmann has convincingly argued that the legal system contained elements of both the Normative and Prerogative States. Jurists willing perverted and discarded traditional understandings of justice as early as 1933. As we shall see in the course of this thesis, aspects of the 'normative' legal system had by 1939 and most certainly by 1941 become so corrupted and procedure so arbitrary that it is misleading to refer as 'normative' at all.

Chapters four and five follow the same structure. They deal with Social-democrats and Communists respectively. Each chapter opens with a detailed exploration of the respective milieu, highlighting the inherent strength and weaknesses of those communities. Each chapter will examine the history of that milieu and its place in wider German society. Attention will be directed at the cultural and social institutions of these communities and the strengths of the bonds they engendered. The main focus of the two chapters will be provided through the detailed analysis of the prosecutions of individuals by the Gestapo, the Munich Special Court and the People's Court respectively, complete with case studies highlighting the dominant themes unique to the sample. In both instances, this will be preceded by an overview of the broader findings and demographic trends of that sample, detailing the age, class and gender of individuals, as well as patterns of party membership and participation, employment and alleged criminality and dysfunction. Each chapter will conclude with an overview of the findings of that sample, suggesting possible and probable motivations of individuals as well as the influence of milieu on those concerned.

Chapter six will deal with the Catholic milieu and the cases of German Catholics prosecuted for the perpetration of 'crimes' of dissent. Initially the chapter will follow the format set down in chapters four and five. It will open with an examination of the parameters of the Catholic milieu, placing considerable emphasis on the importance of the Catholic Church and its teachings, rather than cultural and social or, indeed, political similarities, as the basis for identity and community cohesion in an otherwise heterogeneous and disparate community. However, in contrast to the preceding chapters, the analysis of the cases of Catholics prosecuted for their perpetration of acts of dissent, will be categorised by 'crime'. Proportionately few German Catholics were tried before the People's Court and an analysis based on the structure adopted previously would consequently be skewed and unsatisfying. The full extent of Catholic dissent is better revealed through this changed format.

The seventh and final chapter explores the 'crimes' committed by Germans who did not obviously belong to a distinct milieu. Again, the analysis will be determined by 'offence'

rather than the prosecuting agency. Case studies will be used to demonstrate key trends.

The first part of the chapter will focus on the social circumstances of many of those who committed 'crimes' of dissent, establishing probable reasons for disgruntlement and disenfranchisement, particularly among Germany's working-class whose representatives dominate the sample. The chapter will outline many of the difficulties faced by perpetrators in their everyday lives, particularly the twin scourges of unemployment and poverty. The chapter will also examine the importance of exposure to ideological counters to Nazi indoctrination, many of which found expression in the actions and speech of the perpetrators.

The conclusion will return to many of the broader earlier themes, addressing in the light of the preceding empirical analysis questions about the nature and extent of Nazi terror, and the roles of both the Gestapo and the courts in the maintenance of Nazi rule in the final years of the war. The conclusion will bring together the key findings of the individual chapters, focusing by turn on 'crime', perpetrator and motivation, comparing and contrasting the different sets of perpetrator categorised according to their milieu. It will also examine and elucidate patterns and trends which emerge from the total survey. Finally, it will examine the influence of milieu on the individual and the decision making process, drawing empirically founded conclusions on the interrelationship between terror and dissent, milieu and motivation.

Chapter One: The Nazi Terror Nexus

Terror was a constant if selective feature of Nazi German society.¹⁰¹ Although the Hitler government enjoyed considerable public support, coercion underpinned consent in no small measure. It is telling of the Nazi regime's attitude to terror that in 1936 when the number of political prisoners held in German concentration camps had reached its lowest level and the regime had elicited the support of 98.9% of German voters in the plebiscitary election of 29th March that year, plans were well advanced for the massive expansion of the concentration camp system.¹⁰² At times, buoyed by the spectacular foreign policy successes which characterised the pre-war period, a return to full employment and the swift and almost painless early victories of the war, the Nazi regime could count on the public backing of the overwhelming majority of Germans.¹⁰³ Regardless of this popular support, pockets of antipathy, antagonism and outright rejection continued to exist. Throughout the twelve years of Nazi rule, the regime demonstrated a determination to destroy all vestiges of oppositional behaviour and attitude, irrespective of the limited threat they posed to Nazi rule.

This chapter will explore the different manifestations of Nazi terror. The practice of terror was differentiated and changed over the course of Nazi rule. The initial mob-like violence of the SA gave way to institutionalised mechanisms of control and coercion, in the form of both police and legal terror. Parallel to this existed the concentration camp system run by Himmler's SS. Over a period of years and, particularly during the war, Nazi terror became increasingly arbitrary and violent, determined in no small part by a process of merger between the police and the SS. Other means of coercion, particularly the organisations of the NSDAP, were also available to the Nazi authorities and contributed to the maintenance of Nazi rule in a less obviously terroristic manner. This chapter will show how the practice of terror before 1941 not only laid the clear foundation for the escalation of terror between

¹⁰¹ Wachsmann, N., *Hitler's Prisons: Legal terror in Nazi Germany*, (London, 2004), p. 383.

¹⁰² Kershaw, I., *The Hitler Myth: Image and Reality in the Third Reich*, (Oxford, 2001), p. 147.

¹⁰³ Kershaw, I., *The Hitler Myth*, pp. 167 - 168.

1941 and 1945 but also contributed to the creation of an atmosphere of pervasive threat and menace. It will also examine the practice of Nazi terror after 1941, identifying those arbitrary and ultimately more violent practices which characterised Nazi rule during the final years of the war

Terror and its possibility existed in many forms. It was both state organised and spontaneous. It was brutal in its manifestation and, at times, almost imperceptible. It was frequently a public phenomenon but could also infiltrate the most private of spheres. Seemingly innocuous policies intended to foster the cohesion of the 'National-community' through co-option and reward were underpinned by the threat of persecution and torment.¹⁰⁴ For instance, welfare payments were skewed to benefit those whose loyalty to the regime was most clear.¹⁰⁵ Employment opportunities and the possibility of personal improvement were dictated by political affiliation and spurious notions of race.¹⁰⁶ Importantly, symbols of the power and might of the state were everywhere to be seen. The Swastika was proudly flown from all public buildings as a symbol of both unity and dominance.¹⁰⁷ Celebrations of the police, armed forces and the massed battalions of Nazism were common until almost the end of the war, and were intended to intimidate and inspire in equal measure.¹⁰⁸ The Nazi terror nexus was complicated and pervasive. Combined, it created an atmosphere of menace designed to intimidate and dissuade Germans from undertaking any action which might have undermined the solidarity of the nation.

Nazi Terror: Setting the Tone

The Nazi authorities unleashed a wave of terror unprecedented in German history. Initial perceptions of Nazi terror were shaped not by the actions of the institutions of the German

¹⁰⁴ Schoenbaum, D., *Hitler's Social Revolution: Class and Status in Nazi Germany*, (New York, 1980), p. 278.

¹⁰⁵ Peukert, D., *Inside Nazi Germany*, (London, 1987), p. 213.

¹⁰⁶ Peukert, D., *Inside Nazi Germany*, p. 209.

¹⁰⁷ Spotts, F., *Hitler and the Power of Aesthetics*, (London 2003), p. 52.

¹⁰⁸ Spotts, F., *Hitler and the Power of Aesthetics*, pp. 54-56.

state, but rather by the violence of the NSDAP's paramilitary faction, the SA. The appointment of Hitler as Reich Chancellor on the 30th January 1933 gave free reign to the pent up frustrations of Nazi loyalists. No longer fearful of the sanction of the state, SA men indulged in orgy of unrestrained violence directed at the political left. Known Social-democrats and Communists in particular were harassed, beaten up and on occasion murdered in a wave of attacks across the Reich.¹⁰⁹ This early terror was given further impetus through an edict issued by Göring in his capacity as Prime Minister of Prussia on the 22nd February 1933 which incorporated members of the SA, SS and the nationalist *Stahlhelm* into the police as 'auxiliary officers', ostensibly to combat an upsurge of political activity on the left.¹¹⁰ Göring left few of Nazism's followers in doubt of the regime's intent. He called on officers to make 'ruthless use' of firearms where necessary. Importantly, he removed the possibility of disciplinary action against police officers accused of using excessive force, declaring that he would take personal responsibility for the violent and sometimes murderous actions of police officers. Protected by the full force of the state, the terror directed at the enemies of Nazi battalions was unrestricted.

The parameters of Nazi terror were changed dramatically by the burning of the Reichstag on the night of the 27th/28th February 1933. The Nazi authorities were quick to blame the actions of the lone Dutchman, Marinus van der Lubbe, on organised Communism.¹¹¹ In the hours immediately after the blaze, Minister of the Interior Frick, acting at Hitler's behest, quickly drafted the 'Emergency Decree for the Protection of the State and People' (*Verordnung des Reichspräsidenten zum Schutz von Volk und Staat*)¹¹² which rescinded the civil liberties previously enjoyed by Germany's citizenry and granted sweeping powers to the police. The new law formed the legal basis of future terror. It greatly expanded the rights of the state in relation to the individual and opened up new possibilities for the practice of a terror unfettered by constitutional rights and obligations. During the cabinet meeting on the following morning, Hitler made it clear to his colleagues that the time had arrived for a final

¹⁰⁹ Evans, R., *The Coming of the Third Reich*, pp. 386 - 390.

¹¹⁰ Kershaw, I., *Hitler 1889-1936: Hubris*, (London, 1998), p. 455.

¹¹¹ Gellately, R., *Backing Hitler*, p. 18.

¹¹² The Reichstag Fire Decree

reckoning with German Communism.¹¹³ In the weeks that followed thousands of Communists were arrested and interned. Many also lost their lives in the numerous *ad hoc* 'wild' camps established by SA men throughout the Reich. Social-democrats and prominent Catholics critical of Nazism also did not escape the violence, as the full force of the state, backed by the numerical might of the SA was turned on Nazism's supposed enemies. By April that year over 25,000 suspected enemies of Nazism had been arrested and interned in Prussia alone.¹¹⁴ In total, in the first twelve months of Nazi rule upwards of 100,000 Germans were arrested or interned, mostly by SA men acting as auxiliary police men.¹¹⁵

The SA's campaign of violence continued throughout 1933. Formations of SA men subjected the former strongholds of the KPD and the SPD to bitter and humiliating reconquest (see pp. 192 - 193). German police officers routinely turned a blind eye to SA excesses and refused to either investigate or prosecute their activities, even in cases of murder, which compounded a pervasive sense of helplessness felt by the opponents of National Socialism.¹¹⁶ Localities formerly loyal to either the KPD or the SPD were stripped of the paraphernalia of their political allegiance and community leaders were arrested in large numbers. Columns of SA men routinely paraded through these once hostile communities giving clear visual form to Nazism's victory.¹¹⁷ Only in the Summer of 1934 were the increasingly violent activities of the SA finally reigned in. Growing public disquiet at the SA's 'revolutionary' excesses and growing demands that the unrestrained violence be brought under control eventually forced Hitler to act. On the night of the 30th June 1934, eighty-five leading SA men, including the head of the SA, Ernst Röhm, were murdered by members of Himmler's SS on Hitler's orders, bringing to an abrupt end the terror that the SA had brought to German streets.¹¹⁸ The extralegal killing of the SA leadership had also given an indication of the regime's extraordinary capacity for violence and had left its own

¹¹³ Kershaw, I., *Hitler 1889-1936: Hubris*, p. 460.

¹¹⁴ Kershaw, I., *Hitler 1889-1936: Hubris*, p. 460.

¹¹⁵ Gellately, R., *Backing Hitler*, pp. 18 - 23.

¹¹⁶ Schmiechen-Ackermann, D., *Nationalsozialismus und Arbeitermilieus*, pp. 404 - 405.

¹¹⁷ Schmiechen-Ackermann, D., *Nationalsozialismus und Arbeitermilieus*, pp. 192 - 212.

¹¹⁸ Kershaw, I., *The Hitler Myth*, pp. 91 - 92.

unmistakable message.¹¹⁹ The SA was placed under the leadership of the Hitler loyalist, Viktor Lutze, and was dramatically reduced in size. However, the perception of wanton mob violence engendered by the activities of the SA was lasting in effect and was, indeed, consciously reinforced through Nazi propaganda which made great aesthetic use of the massed ranks of the SA in order to intimidate its opponents.¹²⁰

Although no longer of central to the exercise of terror, the SA continued to fulfil a limited role within the Nazi terror apparatus. On the night 9/10th November 1938, at the instigation of Goebbels and with the tacit authorisation of Hitler, a wave of violence was directed against Germany's Jewish population in supposed retaliation for the shooting of the German Third Legation Secretary in Paris, Ernst von Rath, three days earlier.¹²¹ The violence, led by the SA, resulted in the destruction of many synagogues and Jewish businesses. The police and authorities only intervened to protect German properties from unintentional damage and looting.¹²² Over 20,000 German Jews were arrested and interned and as many as seven hundred were killed or committed suicide in the aftermath. The helplessness of Nazism's enemies in the face of the Nazi challenge was clearly exposed. However, the leading role of the SA during the pogrom, its importance to the exercise of terror, was already at an end. Nazi terror had for some years been the preserve of the police, the courts and Himmler's SS.

Police Terror, Collaboration and Competition

Although initial perceptions of terror were shaped largely by the activities of the SA, it was the police and the courts which led the legal persecution of Nazism's political enemies.¹²³

Police terror itself was shaped by widespread fear of arrest, torture, imprisonment, internment in a concentration camp and death and, ultimately, it was the Gestapo with which

¹¹⁹ Kershaw, I., *Hitler 1889-1936: Hubris*, p. 522.

¹²⁰ Spotts, F., *Hitler and the Power of Aesthetics*, pp. 57 - 58.

¹²¹ Kershaw, I., *Hitler: Nemesis 1936-1945*, pp. 138 - 142.

¹²² Kershaw, I., *Hitler: Nemesis 1936-1945*, p.139.

¹²³ The role of the courts will be dealt with in Chapter Three.

terror was most closely associated. In the first months of Nazi rule a flurry of new discriminatory legislation was introduced (to be examined in detail in later chapters two and three) which formed the legal bedrock of Nazi police terror.¹²⁴ The Reichstag Fire Decree had legalised the holding of suspected opponents for indefinite terms in so-called 'Protective custody' (*Schutzhaft*). Tens of thousands of known opponents of Nazism were arrested by police officers in the first twelve months of Nazi rule and were subjected to considerable brutality and torture in the cells of police stations throughout the Reich.¹²⁵ Importantly, those persecuted by Nazism had no recourse to legal protection.¹²⁶ Police officers delivered thousands into the custody of Himmler's nascent concentration camp system cogent of the horrors that would be inflicted on to their charges.¹²⁷ They also worked closely with court prosecutors, collating evidence for the construction of cases brought before the courts under legislation intended to brutally punish all manifestations of dissent. Although the arbitrary violence and the highly politicised, discriminatory practice of the police under Nazi rule were new, substantial continuities existed with both the structures and practice of the German police during the Weimar Republic.¹²⁸

Of the German police forces existent under Nazism, only the Gestapo was a specifically Nazi creation,¹²⁹ and even it had clear antecedents in the political police offices of the individual states of the the Weimar Republic; on whose expertise in the surveillance of political groups, knowledge and personnel, the effectivity of the Gestapo largely rested. The Kripo (*Kriminalpolizei*) had long enjoyed a fearsome, and during the Weimar Republic much celebrated, reputation in the field of crime detection. Similarly, the Orpo (*Ordnungspolizei*) and the more militaristic Schupo (*Schutzpolizei*), the uniformed police formations responsible for the maintenance of order in large urban centres had first established in the Wilhelmine period and had become known for their heavy-handed and often violent approach to policing. Although Nazism had imbued police practice with certain

¹²⁴ Wachsmann, N., *Hitler's Prisons*, p. 71.

¹²⁵ Evans, R., *The Coming of the Third Reich*, pp. 333 - 366.

¹²⁶ Müller, I., *Hitler's Justice: The Courts of the Third Reich*, trans. Schneider, D., (London, 1991), p. 138.

¹²⁷ Gellately, R., *Backing Hitler*, p. 43.

¹²⁸ Browder, G., *Hitler's Enforcers*, (Oxford, 1996), *passim*.

¹²⁹ The foundation of the Gestapo will be addressed in Chapter 2.

racially and politically infused prerogatives, in reality, the practice of these institutions hardly needed to change in order to incorporate the demands of the regime.¹³⁰ Initially, the police continued to pass most cases of suspected criminal and political behaviour to the courts for prosecution.¹³¹ The police presence was most overt in those areas deemed to be either most politically unreliable or criminous. Long-standing police prejudices had traditionally located criminal activity in Germany's poor, working-class population.¹³² The Weimar police had a history of antipathy towards Communism and often identified it with criminality.¹³³ Nazism's ideological imperatives consolidated this perception and working-class communities continued to be the objects of disproportionate police surveillance.¹³⁴ Poor urban communities were also the frequent targets of police searches, conducted by both the Gestapo and Schupo, intended both to flush out oppositional cells and intimidate local populations.¹³⁵

As we shall see in the following chapters, many of those arrested for the perpetration of acts of dissent had previously been apprehended by the police for the perpetration of either criminal or political acts. Whilst in some cases this points to an implacable loathing of Nazism on the part of those arrested, it is also indicative of routine and standardised police procedure (see table 1, p. 51). The files of the Düsseldorf Gestapo make clear that those Germans already known to the police for either their political engagement or their criminal past, often formed the initial focus of later investigations. The use of police spies, paid informants and private denunciations in the monitoring of political organisations were also established facets of police practice with a history that stretched back to imperial Germany.¹³⁶ What had changed was not so much the manner in which such practices were applied but the scale on which they were used and the purpose to which they were

¹³⁰ Browder, G., *Hitler's Enforcers*, p. 25 - 28.

¹³¹ Wachsmann, N., *Hitler's Prisons*, pp. 165 - 171.

¹³² Browder, G., *Hitler's Enforcers*, p. 25.

¹³³ Browder, G., *Hitler's Enforcers*, p. 25.

¹³⁴ Browder, G., *Hitler's Enforcers*, p. 26.

¹³⁵ Schmiechen-Ackermann, D., *Nationalsozialismus und Arbeitermilieus*, p. 403 - 428.

¹³⁶ Mallmann, K., 'Die V-Leute der Gestapo: Umriss einer kollektiven Biographie' in Mallmann, K., & Paul, G., (eds.) *Die Gestapo: Mythos und Realität*, (Darmstadt, 1995), pp. 268 - 269.

employed. The Gestapp, in contrast to the political police forces of the Weimar Republic, sought not to monitor and control the threat from the political left, taking action only in those instances where it was deemed necessary, but to destroy every vestige of Communist and Socialist machination. In comparison to the practice of the political police offices of the Weimar Republic, the intervention of the Gestapo could have lethal consequences for the individuals concerned.

Throughout the 1930s the political police proved highly effective in the maintenance of Nazi order, the repression of dissenting populations and the detection, infiltration and destruction of opposition groups. In no small part, the effectivity of the police derived from the violence and brutality of their practice. Pre-existing notions of restraint had been undermined by both a process of brutalisation and the policy of gradual merger with Himmler's ideologically radical SS. The loyalty and success of police officers was rewarded through the gradual expansion of police jurisdiction into all areas of law and order at the expense of other agencies, particularly the courts.¹³⁷ The police also played a role of growing importance in the most radical areas of Nazi policy, especially the persecution of those deemed to be racially

Table 1

Rates of Previous Conviction

N.B. Percentages refer to each individual milieu

	Political Convictions	Criminal Convictions	Both
Social-democrats	41 (14.3%)	9 (3.1%)	14 (4.9%)
Communists	484 (45.1%)	58 (5.4%)	149 (13.8%)
Catholics	47 (6.3%)	64 (8.6%)	26 (3.4%)
Individuals	13 (1.4%)	51 (5.6%)	32 (3.5%)

¹³⁷ Wachsmann, N., *Hitler's Prisons*, pp. 169 - 170.

or socially undesirable.¹³⁸ Nowhere was this process of intervention, expansion and radicalisation more obvious than in the persecution of Germany's Jews. The involvement of the Gestapo and other police agencies in the mass-arrest of German Jews in the immediate aftermath of *Reichskristallnacht* led to the ceding of the Ministry of the Interior's jurisdiction over Jewish affairs to the more radical Gestapo.

Police terror reached its height during the war when the regime sought to realise its most radical ideological goals. The contribution of the different police forces to the exercise of terror between 1941 and 1945 was broad in its sweep and involved all police agencies. The Gestapo in particular played an integral role identifying and persecuting the politically and racially determined enemies of Nazism, especially German Jews, stripping them of their wealth and sending thousands to their deaths. As we shall see in the next two chapters, wartime legislation criminalised many aspects of daily life and, in doing so, expanded the extraordinary powers already granted to the police and brought the violent procedures honed in the persecution of dissent and the treatment of German Jews to other areas of law and order. Moreover, the punishments passed for infringements of the law and with which police terror and the threat of police intervention were inextricably linked became more stringent.

The leading role of the Gestapo in the persecution of Germans Jews and political opponents of Nazism, has obfuscated the role of other police agencies in the exercise of terror. Recent scholarship has brought to light the central role of the Kripo in the persecution of supposed 'Asocials'.¹³⁹ Hundreds of thousands of Germans were arrested by the Kripo because of their Asociality; a broad term that had gained currency with politicians and criminologists during the Weimar Republic and was widely applied to those perceived to live outside of existing social norms. Gypsies, homosexuals, the work-shy, alcoholics and career criminals were cast as morally and socially degenerate and responsible for German social decline.¹⁴⁰ Discrimination against these groups had a long history. The external

¹³⁸ Gellately, R., *Backing Hitler*, pp. 37 - 40.

¹³⁹ Peukert, D., *Inside Nazi Germany*, p 214.

¹⁴⁰ Peukert, D., *Inside Nazi Germany*, pp. 208 - 209.

differences of their lifestyles made them easy targets for popular and institutional persecution. The persecution of these groups of 'outsiders' was further institutionalised and radicalised by the Nazi authorities, keen to shape a cohesive community founded on the Nazified principles of virility, masculinity and hard work.

Detlev Peukert has catalogued examples of the savage treatment of Asocials throughout the Reich, documenting the arrests of thousands of Germans in waves of police swoops directed at 'Asocials'.¹⁴¹ During the war tens of thousands of Germans were sent to their deaths in the extermination camps in the East because of their race or their sexuality.¹⁴² Many others were worked to death in camps and subjected to brutal treatment in labour camps because of alleged laziness and alcoholism.¹⁴³ Cases were often built on scant evidence of actual dysfunction or, indeed, criminality, and were based largely on the allegations of 'politically reliable' colleagues and neighbours whose intentions were sometimes nefarious. Although most Germans did not need to fear persecution under the many pieces of legislation directed at Asocials, passed both prior to and after the outbreak of war, the threat of persecution hung heavy over the heads of many Germans, vulnerable to pernicious denunciation and the whims of a politically and racially determined decision making process.

Collaboration between the different police agencies was commonplace and took many forms. The Düsseldorf Gestapo files make clear that information on both suspects, particularly those already known to the police, and crimes were routinely shared between the different police forces as well as the SD and German military intelligence. The regular traffic of information between different agencies, ensured that action was taken against individuals suspected of unreliable behaviour who might otherwise have escaped the notice of the police. The template for future collaboration had been established during the first months of Nazi rule.¹⁴⁴ Few of the tens of thousands of Communists placed in protective

¹⁴¹ Peukert, D., *Inside Nazi Germany*, p. 212.

¹⁴² Peukert, D., *Inside Nazi Germany*, pp. 216 - 219.

¹⁴³ Peukert, D., *Inside Nazi Germany*, p. 214.

¹⁴⁴ Fischer, K., *Nazi Germany*, p. 271.

custody in 1933 had been arrested by the state political police forces which eventually merged into the Gestapo, but by the ordinary uniformed police, the Kripo and the SA.¹⁴⁵ Detachments of officers serving in the Orpo were routinely seconded to both the Gestapo and the Kripo to provide the necessary manpower for the mass arrests which formed the basis of campaigns of persecution directed at those population groups considered to be 'outsiders'. The local gendarmerie also participated in the arrest and persecution in rural communities. In his wide ranging study of the Gestapo and local populations in northern Bavaria, Robert Gellately has cited numerous instances of the arrest and harassment of local German Jews by the gendarmerie at the behest of the Gestapo throughout the 1930s.¹⁴⁶ Similarly, in the large urban centres of Berlin, Hamburg and the Ruhr, the Orpo provided frequent assistance to the Gestapo, providing escorts and transport for the deportation of Jewish populations during wartime.¹⁴⁷ Culpability for the persecution and murder of many of the regime's claimed enemies was by no means restricted to the Gestapo alone.

By contrast, the claims of friction between supposedly competing Nazi agencies have often been exaggerated, partly to exculpate the actions and attitudes of the 'ordinary' police forces.¹⁴⁸ Certainly, professional jealousies existed. The Criminal Police (*Kriminalpolizei* - Kripo), responsible for the investigation of serious crime, resented what they saw as the young upstarts and unprofessional methods of the Gestapo.¹⁴⁹ In contrast, the Kripo regarded itself as a bastion of traditional police professionalism.¹⁵⁰ However, areas of conflict existed between most agencies of Nazi government. The gradual abolition of existing political and social hierarchies and structures, had created loose structures of government and control that were, by definition, competitive.¹⁵¹ Historically, perhaps, too much emphasis has been placed on the destructiveness of these competing agencies. There is no

¹⁴⁵ Evans, R., *The Coming of the Third Reich*, pp. 343 - 379.

¹⁴⁶ Gellately, R., *The Gestapo and German Society: Enforcing Racial Policy*, (Oxford, 1990), pp. 122-124.

¹⁴⁷ Berschel, H., *Bürokratie und Terror: Das Judenreferat der Gestapo Düsseldorf 1935-1945*, (Essen, 2001), p. 155.

¹⁴⁸ Browder, G., *Hitler's Enforcers*, pp. 14 - 15.

¹⁴⁹ Browder, G., *Hitler's Enforcers*, p. 92.

¹⁵⁰ Browder, G., *Hitler's Enforcers*, p. 106.

¹⁵¹ Mommsen, H., *Von Weimar nach Auschwitz*, p. 261.

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evidence to suggest that the victims of Nazism benefited from this friction. Ultimately, there was no real disagreement over the final aims of Nazism, merely 'professional' discomfort and disagreement at the methods through which these aims might best be achieved.¹⁵² Generally, Germany's police forces actively worked together towards the same ideologically determined goals.

Concentration Camps and Absolute Terror

The administration of terror was by no means restricted to the police and the traditional institutions of justice. Party agencies, notably Himmler's SS, also played a key role in the exercise of a terror that existed outside of the legal system. It was in the camps, both in Germany and, during the war, in occupied Poland, that Nazi terror was most horrific and arbitrary. It is not the purpose of this chapter to describe the horrors of camp life, but to establish their place within the Nazi web of terror. The concentration camps existed in parallel to the prison system and the network of work camps administered by the Ministry of Justice and in the pre-war period fulfilled only a limited, but significant role in the punishment of the regime's enemies.¹⁵³ The legal system and its prisons remained the preferred agencies for the punishment of dissenters. Concentration camps were intended to provide an extreme form of punishment for those individuals regarded by the regime as politically most dangerous.¹⁵⁴ Conditions in the camps were intentionally harsh and lacked even the most basic safeguards: exhausting work, beatings and arbitrary killings were routine occurrences.¹⁵⁵ Importantly, there was no guarantee of release. Internment in a concentration camp was intended to traumatise and ultimately deter recidivist behaviour.

The first concentration camp was formally established in Dachau near Munich on 21st March 1933, replacing an *ad hoc* network of improvised camps previously established by SA

¹⁵² Mommsen, H., *Von Weimar nach Auschwitz*, p. 262.

¹⁵³ Wachsmann, N., *Hitler's Prisons*, pp. 184 - 185.

¹⁵⁴ Gellately, R., *Backing Hitler*, p. 58.

¹⁵⁵ Heusler, A., 'Prävention durch Terror: Die Gestapo und die Kontrolle der Ausländischen Zwangsarbeiter am Beispiel Münchens' in Mallmann, K., & Paul, G., (eds.) *Die Gestapo im Zweiten Weltkrieg: "Heimatfront" und besetztes Europa*, (Darmstadt, 2000), pp. 226 - 229.

men with the backing of the police and local state authorities.¹⁵⁶ The initial camp at Dachau was quickly supplemented by further camps at Oranienburg near Berlin, Bergen-Belsen near Hannover and Buchenwald near Weimar. Initially at least the number of prisoners held in concentration camps was relatively low. However, as we noted in the introduction, periods of internment tended to be relatively short if traumatic and the absolute figures (noted on pp. 4 - 5) belie the far higher number of Germans actually imprisoned in the camps over the course of any given year. The concentration camp population increased significantly in November 1938 with the internment of those German Jews arrested by the Gestapo during the *Reichskristallnacht* pogrom.¹⁵⁷ Thereafter prisoner numbers grew steadily for a number of years before exploding in the final years of the war.

The importance of the Concentration camp system to the exercise of terror increased after the outbreak of war. Through punishment, the provision of forced labour and the exclusion of perceived enemies from the 'National-community', the concentration camp system was intended to contribute to ultimate German victory.¹⁵⁸ In the brutalising circumstances of war, the Nazi regime sought to circumvent the traditional institutions of government, in the pursuance of its most ideological radical aims and in this the concentration camps played a key role. During the war, internment in a concentration camp was no longer reserved as a punishment for those individuals understood by the regime to pose the greatest threat but was routinely used to punish ordinary Germans suspected of minor infringements of the law.¹⁵⁹ As prisoner numbers grew, conditions in the camps deteriorated markedly and became even more murderous. Thousands of prisoners held in concentration camps died during the second world war. Partly, this was a consequence of the intentional violence and barbarity which characterised camp life. However, the high death toll was also the product of institutional neglect. The adequate provision of food and medical supplies to prisoners in both prisons and the camps was not a priority for the Nazi regime and prisoners were

¹⁵⁶ Gellately, R., *Backing Hitler*, p. 51.

¹⁵⁷ See Wachsmann, N., *Hitler's Prisons*, p.394.

¹⁵⁸ Gellately, R., *Backing Hitler*, pp. 206 - 207.

¹⁵⁹ Gellately, R., *Backing Hitler*, pp. 71 - 75.

forced to survive on meagre bread rations and a watery vegetable broth.¹⁶⁰ Death as a result of malnutrition and increasingly endemic disease were commonplace.¹⁶¹ By the end of the war, concentration camps had spread like a cancer throughout the Reich. In Munich alone, there were some forty camps and sub camps in 1944 and in Berlin, thirty. Dachau alone possessed upward of one hundred and twenty sub-camps in 1944-1945.¹⁶² As we noted in the introduction, by 1945 over 700,000 prisoners were held in dire conditions in concentration camps on German soil.¹⁶³

The camps were not veiled in complete secrecy. Although awareness of the full extent of the horrors of life in the camps was restricted to a relatively small number of people, stories and anxiety abounded about the brutality of camp life.¹⁶⁴ Indeed, limited knowledge of the camps was central to the perpetuation of the threat of terror. Robert Gellately's investigation of concentration camps and the Nazi media, has drawn attention to the considerable press

Table 2

Previous Internment in Concentration Camps

N.B. Percentages refer to each Individual milieu

	Interned once previously	Interned on more than one occasion
Social-democrats	39 (13.6%)	26 (9.1%)
Communists	362 (33.7%)	169 (15.6%)
Catholics	32 (4.3%)	4 (0.5%)
Individuals	68 (7.5%)	15 (1.6%)

¹⁶⁰ Wachsmann, R., *Hitler's Prisons*, p 245.

¹⁶¹ Noakes, J., *Nazism 1919 - 1945: Vol. 4: The German Home Front in World War II*, (Exeter, 1998), pp. 163 - 183.

¹⁶² Gellately, R., *Backing Hitler*, pp. 217 - 218.

¹⁶³ Gellately, R., *Backing Hitler*, p. 219.

¹⁶⁴ Wachsmann, N., *Hitler's Prisons*, p. 384

coverage announcing the opening of the camps at Dachau and Oranienburg.¹⁶⁵ Throughout the 1930's newspaper articles had carried detailed descriptions of camp routines and, importantly, surveyed the types of 'degenerate' for whom the camps were intended.¹⁶⁶ However, reports on camp life were sanitised for public consumption. The camp at Oranienburg was described in the press as 'village-like', a place in which 'hard work' would teach prisoners 'new values'.¹⁶⁷ However, this idyllicised of the camps was belied by the proclamations of German leaders who spoke of the need to 'isolate; and 'control' and, ultimately 'destroy' certain groups.¹⁶⁸

Stories of murder and the brutal treatment of prisoners inevitably entered the public domain, a consequence of the many rumours fuelled by the stories of released prisoners, the numerous notifications of death received by the families of prisoners and the eye witness accounts of the many thousands of Germans employed in different capacities in the camps. Importantly, those communities most antagonistic towards Nazism, were made aware of the full possibilities of the terror that existed in the camps. KPD and SPD functionaries had initially constituted the majority of prisoners sent to the camps and remained the largest single group of non-criminal German prisoners.¹⁶⁹ During the war, camp prisoners and slave labourers played an increasingly public role. Prisoner labour could no longer be restricted entirely to the camps and the sight of malnourished prisoners under armed escort became common in many areas of Germany.¹⁷⁰ Prisoner labour even appeared in the heart of Germany's cities, as prisoner details were forced to clear debris in the aftermath of Allied bombing raids. The frequent public ill-treatment of prisoners only served to reinforce the terroristic nature of Nazi power. 'Dachau' remained a real and potential threat for the twelve years of Nazi rule. Camp life could not and did not remain hidden from most Germans. Indeed, the threat of imprisonment in the camps would have been considerably weakened, had no public knowledge of camp life and the conditions

¹⁶⁵ Gellately, R., *Backing Hitler*, p. 51 - 57.

¹⁶⁶ Burleigh, M., *The Third Reich*, p. 201.

¹⁶⁷ Gellately, R., *Backing Hitler*, p. 55.

¹⁶⁸ Wachsmann, N., *Hitler's Prisons*, pp. 101 - 111.

¹⁶⁹ Wachsmann, N., *Hitler's Prisons*, pp. 117 - 128.

¹⁷⁰ Gellately, R., *Backing Hitler*, pp 155 - 173.

endured by prisoners existed.

Violence and Propaganda

Propaganda was of central importance to the perpetuation of the threat of terror. The public presentation of terror in the Nazi media was carefully orchestrated by officials in Goebbels's Ministry of Propaganda. It was differentiated and functioned on many levels. Initially, the presentation of terror focused on police success in combating Nazism's political enemies. This took the form of frequent press reports celebrating the actions of the police and the Gestapo in particular, which gave due emphasis to the certainty of arrest and punishment of those engaged in illegal activity. More chillingly, the trial and execution of Communists and other traitors were also the subject of considerable media attention. Public perceptions of the police and the terror they represented were also shaped through other means. The annual celebration of the 'Day of the German Police' held for the first time in December 1934 was widely popular. By 1937 it had become a week long celebration of police strength, marked by numerous parades and exhibitions documenting the modernity and success of police methods.¹⁷¹ The image of police terror drew on Nazism's own carefully constructed self image as a popular monolith. Goebbels and his officials borrowed heavily and with great skill on the iconography of militarism; Nazism's strength in numbers was presented in crude juxtaposition to the dangerous and lonely existence of the dissenter.¹⁷² Leni Riefenstahl's highly stylised film, commissioned to commemorate the 1935 Nuremberg rally, *Triumph des Willens*, had presented the SA and other Nazi battalions as a highly disciplined force to be feared as much as admired and served as a template for the depiction of Nazism. Occasions such as 'Heroes' Memorial Day' also provided extravagant excuses for militaristic and bombastic displays of strength and unity.

Propaganda fulfilled several vital functions: it was intended to be inspirational and, in the final

¹⁷¹ Gellately, R., *Backing Hitler*, p. 44.

¹⁷² Richter, I., *Hochverratsprozesse als Herrschaftspraxis im Nationalsozialismus: Männer und Frauen vor dem Volksgerichtshof 1934-39*, (Münster, 2001), p.142.

years of the war, to engender real faith in German victory. It was, however, also designed to intimidate and threaten, to remind potential dissenters that their actions were futile. During the war and particularly after 1941 when the need for national cohesion became even more pressing, the public presentation of Nazism underwent a gradual change. The refinement of the earlier propaganda image of the Nazi movement was gradually discarded to be replaced with the image of the fanatic and the mob. The image of the soldier willing to sacrifice his life for Hitler and the fatherland was widely celebrated in Nazi Germany.¹⁷³ The portrait of the individual hero found its counterpoint in the baying mob, implicit in the broadcast of audience responses to Hitler's Reichstag speeches.¹⁷⁴ The reports and, on certain occasions, the careful recordings of the thunderous receptions given to the Führer by audiences of Nazi loyalists possessed an important propaganda function, as did the cheers which met Hitler's sometimes chilling proclamations.¹⁷⁵ The fanaticism and loyalty of Nazi followers was made most evident in the impassioned responses to Goebbels's visceral demand for 'total war' to a mass audience at Berlin's Sportpalast on 18th February 1943 following the German defeat at Stalingrad. Nazi propaganda made clear that behind Hitler stood an army of loyalists willing to do his bidding.

Nowhere was the regime's willingness to embrace violence more pronounced than in the visceral language of Nazism. The threat of terror found almost constant expression in Nazi proclamations at all levels,¹⁷⁶ which were couched in the language of war.¹⁷⁷ Jeremy Noakes has highlighted the allusions to disease, destruction and the need to destroy enemies both at home and abroad which littered speeches made by the Nazi leadership and found an echo in the speeches of party and state functionaries at all levels.¹⁷⁸ After the outbreak of war the language of Nazism became increasingly violent. This process reached its high point following the invasion of the Soviet Union in June 1941. Hitler's determination to wage, not a conventional war, but an ideological war of destruction was reflected in the violent and

¹⁷³ Spotts, F., *Hitler and the Power of Aesthetics*, pp. 109 - 112.

¹⁷⁴ Noakes, J., *Nazism 1919-1945: Vol. 4*, p. 501.

¹⁷⁵ Spotts, F., *Hitler and the Power of Aesthetics*, pp. 66-69.

¹⁷⁶ Kershaw, I., *Hitler: Nemesis 1936-1945*, pp. 510-512.

¹⁷⁷ Noakes, J., *Nazism 1919-1945: Vol. 4*, p. 466.

¹⁷⁸ Noakes, J., *Nazism 1919-1945: Vol. 4*, pp. 473 - 498.

nihilistic language of Nazi leaders.¹⁷⁹ On the increasingly infrequent occasions on which he spoke publicly, Hitler vigorously affirmed his absolute faith in German victory whilst making plain amidst a flurry of threats his determination to 'annihilate' the twin enemies of 'barbaric' and 'subhuman' Bolshevism and Judaism.¹⁸⁰

Nazi language was not only infused with the imagery of destruction, it was also intentionally exclusive. Through the co-option of the language and symbolism of patriotism, the concepts of Nazism and Germanness had become synonymous: both were indivisible from Hitler.¹⁸¹ Loyalty to one idea demanded allegiance to all three. One could not reject one without discounting the others. This enabled the easy labelling of opponents as traitors, alien and other.¹⁸² The sentencing of defendants before the German courts 'in the name of the People' was indicative of this.¹⁸³ The process of linguistic alienation was heightened by the conditions of war and the Darwinist and cancerous framework of Nazi analogy. The inference was clear: so-called 'pests' could be easily and necessarily expunged from German society. Furthermore, linguistic alienation denied opponents a means of expression in times of war.¹⁸⁴ As the surviving writings and memoirs of the 20th July 1944 bomb plotters and their associates demonstrate, it was difficult to articulate a future vision of a Germany without Hitler that was convincingly German.¹⁸⁵ The violence of Nazi language served several purposes. It reminded Germans of the terror of which the Nazi regime had proved itself capable. It enabled an atmosphere of threat and intimidation to be created without the constant expenditure needed to maintain actual terror.

¹⁷⁹ Kershaw, I., *Hitler: Nemesis 1936-1945*, p. 540.

¹⁸⁰ Kershaw, I., *Hitler: Nemesis 1936-1945*, p. 540.

¹⁸¹ Kershaw, I., *The Hitler Myth*, p. 258.

¹⁸² Marxen, K., *Das Volk und sein Gerichtshof: Eine Studie zum nationalsozialistischen Volksgerichtshof*, (Frankfurt am Main, 1994), pp 74-75.

¹⁸³ Marxen, K., *Das Volk und sein Gerichtshof*, pp. 18 - 19.

¹⁸⁴ Mommsen, H., *Alternative zu Hitler*, pp. 40 - 41.

¹⁸⁵ Mommsen, H., *Alternative zu Hitler*, *passim*.

Control Through Other Means

Control was not merely exercised through the executive organs of the state and the thuggery of the party cohorts. It was maintained through more subtle means which intruded into both the workplace and the home. Social pressure to conform to Nazi norms was exerted through a number of mechanisms, particularly the institutions of the NSDAP.¹⁸⁶ David Schoenbaum's detailed account of social coercion and co-option in the pre-war period, has done much to elucidate the manner in which Nazi will was enforced across the class spectrum.¹⁸⁷ The traditional structures of workplace representation, particularly the once powerful trade unions of the Weimar era, were abolished in May 1933 and were replaced with small cell structures and organisations under the umbrella of the monolithic German Labour Front (*Deutsche Arbeitsfront* - DAF). The works' councils organised by the DAF were intended not to represent the concerns of workers, but rather to channel the wishes of employers and the state to the workforce.¹⁸⁸ Despite limited attempts by the KPD underground resistance and small groups of organised workers to subvert the purpose of the councils for a wider political purpose, cells mostly remained in the hands of NSDAP party loyalists who ensured that workplace business corresponded with party policy.¹⁸⁹ The councils were also able to exercise limited but effective powers many of which only reinforced the perceived need to conform.¹⁹⁰ Work cell representatives, many loyal to the NSDAP, decided recommendations for promotion. Consequently, workers known to have been loyal to an ideology other than Nazism were frequently denied further employment opportunities, wage rises and were subject to harassment from Nazi colleagues.¹⁹¹

Workplace pressure also existed in the form of compulsory membership of the DAF. Ostensibly conceived to represent the interests of all wage-earners within the NSDAP

¹⁸⁶ Noakes, J., *Nazism 1919-1945: Volume 4*, p.101.

¹⁸⁷ Schoenbaum, D., *Hitler's Social Revolution*, *passim*.

¹⁸⁸ Peukert, D., *Inside Nazi Germany*, p.107.

¹⁸⁹ Peukert, D., *Inside Nazi Germany*, pp. 96 - 98.

¹⁹⁰ Peukert, D., *Inside Nazi Germany*, p. 108.

¹⁹¹ Peukert, D., *Inside Nazi Germany*, p. 107.

party structure, it lacked the powers once enjoyed by the Trade Unions, and existed more to educate German workers in Nazi ideology and aims. It was a vast and sprawling organisation. Conceitedly equating the aims and concerns of civil servants and coal miners, the DAF was too nebulous to represent adequately any specific group. Instead, it functioned as an effective vehicle of coercion and control. Monthly subscriptions were demanded from all workers and attendance at DAF organised works' events was frequently obligatory. The DAF made demands of loyalty from workers, including the waving of the flag and the uniformed attendance of public speeches, not only reinforcing superficial Nazi norms but importantly, identifying those who chose not to participate.

Control of access to the many benefits of Strength through Joy (*Kraft durch Freude* - KdF) also enabled the DAF to exercise subtle control over employee behaviour. Although the reach and remit of the KdF was much diminished by the circumstances of war, it continued to be able to provide welcome relief from the hardships of war through the provision of concerts, day trips, cinema excursions and other minor diversions. Those seeking to participate were required to demonstrate not only a superficial loyalty to Nazism but an active commitment to the Nazi cause. Dues to the various Nazi organisations had to be

Table 3

Participation in Nazi organisations

N.B. Percentages refer to each individual milieu

	DAF	NSV	RLB	SA
Social-democrats	182 (63.8%)	58 (20.3%)	72 (25.2%)	7(2.4%)
Communists	613 (57.1%)	327 (30.4%)	162 (15.9%)	—
Catholics	307 (41.3%)	123 (16.5%)	104 (13.9%)	32 (4.3%)
Individuals	428 (47.7%)	313 (34.8)	157 (17.5%)	28 (3.1%)

paid. Similarly, donations had to be made to the Nazi charitable institution Winter Help (*Winter Hilfe*). Through both bribery and coercion the DAF was able to enforce an active commitment to Nazism, not only pinpointing and ostracising those Germans who did not correspond to Nazi expectations, but actively conspiring to exacerbate the hardships of those who did not wholly belong to the 'National-community'. Importantly, evident nonconformity to prescribed norms could and did lead to investigation by the police.

The pervasive coercive reach of Nazism also extended into the home, particularly during the period considered, from 1941 to 1945.¹⁹² Party officials were appointed to every street and each apartment block in the Reich. Officially their task was to oversee party business in the areas under their jurisdiction, although, during the war Block Wardens were increasingly to police the activities of their fellow residents. Denunciations to the police of suspected 'criminality' and political 'unreliability' were disproportionately made by party loyalists and Block Wardens in particular, who had through proximity unprecedented knowledge of the comings and going of their neighbours.¹⁹³ Block wardens ensured that residents demonstrated a suitable external loyalty to Nazism.¹⁹⁴ The failure of German citizens to fly the Swastika or give the Hitler salute could give rise to an official complaint by the local Block warden. It was also their duty to collect donations for the Winter Help, and, as the files of the Düsseldorf Gestapo, make clear, many took it upon themselves to judge the extent of other German's commitment to the Nazi cause through the size of the donations received. Block wardens also acted as the eyes and ears of the police, reporting behaviour they deemed suspicious, leaving those in poorer areas in multiple tenancy dwellings, where the KPD had traditionally found its strongest constituency, vulnerable to denunciation and official harassment.¹⁹⁵ The files of the Düsseldorf Gestapo reveal that radio listening habits and the 'unusual' arrival and departure of visitors were frequent subjects of Block Warden complaint. Although spite, malice and neighbourly jealousy, as much as absolute political conviction, frequently informed the actions of Nazi Block Wardens, they did not alter its effect, namely

¹⁹² Noakes, J., *Nazism 1919-1945*. Vol. 4, pp. 99 - 105.

¹⁹³ Johnson, E., *The Nazi Terror*, p. 372.

¹⁹⁴ Noakes, J., *Nazism 1919-1945*. Vol. 4, pp. 102 - 103.

¹⁹⁵ Schmiechen-Ackermann, D., *Nationalsozialismus und Arbeitermilieus*, pp. 198 - 403.

the intrusion of Nazi mechanisms of control into the private home.

The Terror Nexus

There was far more to Nazi terror than the concentration camps and the secret police. As we have seen, the various institutions of party and state combined to form a comprehensive web of terror, made up of a series of overlapping and sometimes competitive elements, but which importantly pulled in the same ideological and political direction. Nazi terror reached its height after 1941, when the most radical party and state agencies which had previously come to the fore in the exercise of terror were freed from any pre-existing constraints. Organised dissent associated with the political formations of the Weimar Republic towards the Hitler regime was largely nullified by the initial violence which established the regime. As we shall see in chapters four, five and six, oppositional structures did not survive this onslaught in a viable form. Thereafter, occasional explosions of violence, constant and visceral propaganda backed by the very real terror of the police, courts and the camps directed specifically at certain political and social groups, made clear the threat posed by the regime to those who might seek to oppose it. Other Nazi agencies, particularly the organisations of the NSDAP, conspired to render existence without the 'National-community' difficult, lonely and dangerous. Support for the regime was shored up by the exercise of real arbitrary terror, mitigated by milder, yet still threatening, methods of persuasion. Whilst the Hitler regime, especially during the war, could count on the loyalty of a large majority of Germans, the conformity and obedience of a significant minority was only secured through the effectivity of the Nazi terror nexus.

Chapter Two: The Gestapo

Foremost Instrument of Nazi Terror

As we saw in the previous chapter, the Gestapo was not the sole agency of Nazi repression, rather it was part of a far more comprehensive apparatus of terror which included many of the offices of the NSDAP and the institutions of the German state. It is, however, the Gestapo which has become justifiably synonymous with Nazi terror. As an institution, the Secret State Police enjoyed extraordinary powers and existed above the law, accountable only to Himmler and Hitler. The Gestapo was responsible for the suppression of all oppositional groups within Germany and the occupied territories, the persecution of Europe's Jewish population and the treatment and organisation of foreign labourers in the Reich. Its record is one of extreme brutality and ideological zeal matched only by cold cynicism.

The aim of this chapter is not to examine the workings, personnel and practice of the Gestapo but rather to elucidate the scale of the threat posed by the Gestapo to ordinary Germans between 1941 and 1945. The practice of the Gestapo towards those milieux which had been most antagonistic towards Nazism before 1933, and from where acts of dissent in their myriad forms were most likely to spring, will form the basis of this chapter. It will evince how key reforms introduced during the first years of Nazi rule greatly expanded the jurisdiction of the Gestapo and granted it the freedom to act outside of the law, setting precedents in police practice which paved the way for the escalation of police terroristic after 1941. This chapter will also demonstrate, using examples from the survey, that despite the availability of only limited resources, and a practice that was geographically differentiated and deeply influenced by both ideology and local circumstances, that the Gestapo was a very effective tool of repression.

Gestapo terror grew almost exponentially during the twelve years of the Third Reich, however the actual exercise of terror remained limited to a proportionally small number of

Germans. Recent scholarship has made clear that despite its possibility and lack of restriction, the terroristic practice of the Gestapo was neither entirely indiscriminate nor arbitrary.¹⁹⁶ Many Germans hostile to the regime survived the war unscathed and untouched by the executive organs of the Nazi state. Local studies have also demonstrated that the practice of the Gestapo was differentiated. The extent of terror varied from locality to locality: the responses of the Gestapo to 'crimes' of dissent were far more lenient in Hanover than in Cologne where the Gestapo was noted for its brutality.¹⁹⁷ Similar studies have dispatched the myth of a Gestapo staffed solely by fanatics, although the employment of radicalised younger NSDAP and particularly SS members indubitably contributed to the radicalisation of the Gestapo as an institution. A number of recent studies have also revealed that Gestapo officers were overworked and at times unable to deal with the flood of denunciations from the general public on which their reputation for omnipotence partly rested. However, the chapter will argue that such restrictions did not inhibit the Gestapo's ability to function effectively and were overcome with relative ease.

The Gestapo in History

The Gestapo continues to occupy a unique place within the history of the Third Reich. No other Nazi institution is shrouded in quite the same sea of myth. The image of the Gestapo officer as a brutal, all seeing and all hearing, ideological zealot, dressed in ominous leather trench coat has been perpetuated in scholarly literature. More so than either the Soviet KGB or the East German Stasi, the Gestapo remains a by-word for arbitrary police terror. More recent scholarship, initiated by the pioneering work of Reinhard Mann into the Düsseldorf Gestapo and built upon in later studies of the Würzburg Gestapo files by Robert Gellately and the mammoth study of the relationship between rulers and ruled in the

¹⁹⁶ Johnson, E., *The Nazi Terror*, p 354.

¹⁹⁷ The comparative leniency of the Hanover Gestapo is well documented in Schmidt, H., "Anständige Beamte" und "Üeble Schläger". Die Staatspolizeistelle Hannover' in Mallmann, K., & Paul, G., (eds.), *Die Gestapo: Mythos und Realität*, pp. 133 - 157 which highlights the influence of the political moderation of its chief, Werner Bloss, whereas the brutality of the Cologne Gestapo is recorded in Rusinek, B., "Wat denkste, wat mir objerümt han" Massenmord und Spuren beseitigung am Beispiel der Staatspolizeistellen Köln' in Mallmann, K., & Paul, G., (eds.), *Die Gestapo: Mythos und Realität*, p. 406.

Saar undertaken by Gerhard Paul and Klaus-Michael Mallmann, has demonstrably proven that the reality was very different from the myth.¹⁹⁸ Yet, despite the elucidation of considerable new knowledge which has thrown long-held perceptions of the Gestapo into sharp relief, little scholarship has been devoted to the effectivity and perception of Gestapo terror which will be examined here.

Historical research has only recently given due attention to the Gestapo, given its central and long recognised function in the Nazi state. Post-war research was initially not only sparse but was hampered by the acceptance by scholars of, firstly, the image of the Gestapo that the Nazi authorities had chosen to project, and, secondly, by the judicial conclusions of the Nuremberg trials in which both the Gestapo and the SS were branded 'criminal organisations'.¹⁹⁹ Consequently, the Gestapo quickly became a focus for blame for not only Nazi atrocities but also for the inertia of many Germans in the face of Nazi excesses.²⁰⁰ As Mallmann and Paul have convincingly argued, Himmler and Heydrich were not mere practitioners of terror but also skilled propagandisers of terror.²⁰¹ The celebration in the Nazi media of the success and efficiency of the German police forces and the intense newspaper coverage of trials and executions, indubitably created the desired and enduring impression that there was a Gestapo officer on every street corner and that every wrongdoing would not remain uncovered.²⁰² William Sheridan Allen noted that in 1935 the 'Gestapo became extraordinarily efficient by reason of rumours and fears' rather than through the widespread experience of Gestapo terror.²⁰³

¹⁹⁸ See Mann, R., *Protest und Kontrolle im Dritten Reich: Nationalsozialistische Herrschaft im Alltag einer rheinischen Großstadt*, passim; Gellately, R., *The Gestapo and German Society*, passim; & Mallmann, K., & Paul, G., *Herrschaft und Alltag. Ein Industrieviertel im Dritten Reich. Widerstand und Verweigerung im Saarland 1935-1945. Band I.*, passim.

¹⁹⁹ Mallmann, K., 'Social Penetration and Police Action Collaboration Structures in the Repertory of Gestapo Activities' in *International Review of Social History*, 42 (1997), p. 26.

²⁰⁰ Röhr, W., 'Über die Initiative zur terroristische Gewalt der Gestapo: Fragen und Einwände zu Gerhard Paul' in Berlekamp, B., & Röhr, W., (eds.) *Terror, Herrschaft und Alltag im Nationalsozialismus: Probleme einer Sozialgeschichte des deutschen Faschismus*, (Münster, 1995), p. 211.

²⁰¹ Mallmann, K., & Paul, G., *Herrschaft und Alltag. Band 1*, p. 164.

²⁰² Paul, G., 'Die Gestapo als Thema der Forschung: Auf dem Wege zu einer Sozialgeschichte des Terrors: eine Zwischenbilanz' in Mallmann, K., & Paul, G., (eds.) *Die Gestapo: Mythos und Realität*, p. 3.

²⁰³ Allen, W., *The Nazi Seizure of Power: The Experience of a Single German Town 1930-1935*, (Chicago, 1965). p. 178.

It was not until the late 1970's that the self-perpetuating image of the executive hegemon was questioned. Edward Crankshaw, writing in the late 1950's readily accepted the idea that the Gestapo, whilst an abhorrence, was perhaps a perfect police force. In the introduction to a book which, despite its linguistic eccentricity and vehement anti-Germanness, still commands a surprising degree of citation in academic works which we can, perhaps, trace to his piquancy of phrase rather than scholarly content, he wrote that the Gestapo was 'a small, compact and highly professional corps'.²⁰⁴ His thesis has gained wide acceptance, despite the apparent contradiction between the size of the Gestapo and the police omnipotence propounded throughout his book. Similarly, the French historian, Jacques Delarue, writing almost a decade later depicted the Gestapo as almost incomprehensibly efficient; a perfect police force.²⁰⁵ Both had accepted not only the findings of the Nuremberg court but also the myth crafted by the Nazi authorities and turned it into historical fact. This tainted image of the Gestapo found a further echo in the work of Georg Schulz who described the Political Police as a perfectly functioning instrument of observation able to discern every instance of dissent against the National Socialist state.²⁰⁶

The notion of highly professionalised evil, encapsulated in the three works cited, suited the political and social climate in the immediate post-war period and slotted neatly into theories of totalitarianism then *en vogue*. German society was cast as the victim of an omnipotent and unaccountable police force staffed by fanatics.²⁰⁷ The perception of the Gestapo as an executive clique that had forced its will on to a nation gave justification to collaborators and those who had not raised their voices in opposition. Equally importantly, the moral condemnation of both the Gestapo and the SS by the Nuremberg tribunal had almost *de facto* exculpated other German institutions from the burden of guilt. Many serious academic works, often related to the trials of leading Nazi figures which began in earnest in the Federal

²⁰⁴ Crankshaw, E., *Gestapo: Instrument of Terror*, (London, 1956), p.13.

²⁰⁵ Delarue, J., *The Gestapo*, (London, 1969), *passim*.

²⁰⁶ Schulz, G., *Die Anfänge des totalitären Massenstaates*, (Cologne, 1974), p. 211.

²⁰⁷ Paul, G., 'Die Gestapo als Thema der Forschung' in Mallmann, K., & Paul, G. (eds.) *Die Gestapo: Mythos und Realität*, p. 4.

Republic in the early 1960's, dealt with the Gestapo from an institutional perspective. The masterly *Anatomie des SS Staates*, written by Broszat, Buchheim, Jacobsen and Krausnick, is in this respect typical.²⁰⁸ Their work charted the legal development and the institutional history of both the police and the SS. However, it was the result of research presented to the court during the Auschwitz trials in Frankfurt am Main in 1963 and was not intended to explore the day-to-day realities of the Gestapo practice.

Buchheim's thorough analysis of SS and police structures did much to elucidate the sometimes confused understanding of the interrelationship between the SS and the police. It also located the Gestapo at the epicentre of Nazi atrocities.²⁰⁹ However, Buchheim did not question the perception of the Gestapo as an omnipotent tool of a totalitarian power. Indeed, the charting of the legal development of the Gestapo gave further credence to that view, in so far as it revealed the creation of a legal and political framework for the arbitrary exercise of terror. A number of institutional, legal histories from *Die deutsche Justiz und der Nationalsozialismus*²¹⁰ to Lothar Gruchmann's *Justiz im Dritten Reich*²¹¹ have since clearly and articulately proven the legal and determined establishment of a supra- and extralegal executive police force, further, if unintentionally, reinforcing the image so carefully cultivated by Heydrich and propounded by Crankshaw and Delarue.

Only in the 1970's with the growth of social-historical studies, often at a local level, did accepted scholarship on the subject start to change and the Gestapo become the focus of more rigorous historical investigation.²¹² Local studies of the reactions and experiences of distinct population groups to Nazi rule began to change perceptions of Nazi rule itself and encourage similar sociological studies into the institutions of the Nazi state. As we noted

²⁰⁸ Buchheim, H., *Anatomie des NS-Staates: Band 1. Die SS:- das Herrschaftsinstrument: Befehl und Gehorsam*, (Freiburg in Breisgau, 1965), *passim*.

²⁰⁹ Buchheim, H., *Anatomie des NS-Staates*, pp. 114 - 140.

²¹⁰ Of particular importance to this study is Wagner, W., *Die deutsche Justiz und der Nationalsozialismus Dritten Reich. Band III. Der Volksgerichtshof im nationalsozialistischen Staat*, (Stuttgart, 1974), *passim*.

²¹¹ Gruchmann, L., *Justiz im Dritten Reich 1933-1940. Anpassung und Unterwerfung in der Ära Gürtner*, (Munich, 1991), *passim*.

²¹² Jessen, R., 'Polizei und Gesellschaft: Zum Paradigmwechsel in der Polizeigeschichtsforschung' in Mallmann, K., & Paul, G., (eds.) *Die Gestapo: Mythos und Realität*, p. 19.

earlier, the Bavaria Project placed under scrutiny as many possible aspects of daily life in Nazi ruled Bavaria as was possible. This mammoth undertaking revealed a picture both seemingly contradictory and confusing. Previous delineations between good and bad, collaborators and enemies were swept away. A far more complex understanding of Nazi rule emerged in which dissent, apathy, enthusiasm and support coexisted within distinct milieux, communities and individuals.²¹³ Although the Bavaria Project had focused on popular reactions to the challenges of Nazi rule, rather than the structures and practice of Nazi governance, it encouraged scholars to take a similarly societal approach to other aspects of Nazi rule.

In 1975 George Browder published his first study of the interrelationship between the Sipo and the SD at not only an institutional but also at a personnel level upon which he subsequently built in further works.²¹⁴ His findings pointed for the first time to a Gestapo that was not staffed by fanatics alone but which drew on the expertise of large numbers of career policemen. Browder pointed to the continued active service of large numbers of policemen who had trained under and served the Weimar Republic, and had rarely but not exclusively demonstrated the extreme propensity to violence and fanaticism that would later characterise the Gestapo.²¹⁵ He also drew attention to the unexpectedly low, although still significant, levels of SS membership, pointing in the final war years, and in the context of considerable pressure, to a figure no higher than fifty-five per cent.²¹⁶ By contrast, he argued that comparatively high levels of NSDAP membership acted as an ideological counterbalance to, what he had established as, a relatively low SS level penetration. Browder was careful to locate this ostensible police 'moderation' and professionalism within a distinct 'sub-milieu', identifying a widespread tendency within the then Weimar police to see itself as the victim of unnecessary political interference,²¹⁷ which enabled the transition from ostensibly loyal service to a democracy to similarly loyal but barbarous service to the

²¹³ See pp 17 - 20.

²¹⁴ Browder's research culminated in 1996 in Browder, G., *Hitler's Enforcers*, (London, 1996).

²¹⁵ Browder, G., *Hitler's Enforcers*, *passim*. Esp. pp. 34 - 47.

²¹⁶ Browder, G., *Hitler's Enforcers*, p. 131.

²¹⁷ Evans, R., *The Coming of the Third Reich*, p. 273.

Hitler dictatorship.²¹⁸ In essence, Browder located the roots of the violence and effectivity of the Gestapo in the police micro milieu of the Weimar Republic.²¹⁹ His nuanced thesis is a key to our understanding of the effectivity of the Gestapo and the threat of terror during the later war years.

Historical perceptions of the practice and function of the Gestapo were also challenged by Reinhard Mann's unfinished investigations into the workings of the Düsseldorf Gestapo, published posthumously in 1987. His careful study of 825 Düsseldorf Gestapo files demonstrated that Gestapo persecution was far from total. Gestapo resources were scarce and consequently different social groups were treated according to threat that they were perceived to have posed to the Nazi state.²²⁰ Mann highlighted the considerable attention paid by the Gestapo to the activities of the Communists in comparison to other political groups,²²¹ noting that police terror was selectively directed at community and political leaders.²²² He recorded only one incident of the arrest of a member of the Zentrum for illegal political activity, in contrast to sixty-one members of the KPD.²²³ Mann also pointed to the weaknesses of the Gestapo surveillance apparatus and the subsequent reliance on denunciations from the general population.²²⁴ However, as his statistical analysis demonstrated, the resources to monitor and suppress the entire German population were neither there nor needed.²²⁵ Mann's findings proved to be groundbreaking but now seem far from surprising. Although his work did not call into question the idea of a fanatical police force or dispense with the idea of criminalised perfection and efficiency propounded by Crankshaw *et al*, it made clear that the understanding of the Gestapo that had hitherto existed was untenable.

²¹⁸ Browder, G., *Hitler's Enforcers*, pp. 21 - 24.

²¹⁹ Browder, G., *Hitler's Enforcers*, p 19.

²²⁰ Mann, R., *Protest und Kontrolle im Dritten Reich*, pp. 179 - 271.

²²¹ Mann, R., *Protest und Kontrolle im Dritten Reich*, p. 185.

²²² Evans, R., *The Coming of the Third Reich*, pp. 350 - 374. Esp. p 376

²²³ Mann, R., *Protest und Kontrolle im Dritten Reich*, pp. 287 - 303.

²²⁴ Mann, R., *Protest und Kontrolle im Dritten Reich*, pp. 290 - 295.

²²⁵ Mann, R., *Protest und Kontrolle im Dritten Reich*, *passim*.

Mann's findings proved to be a catalyst and since the publication of his work detailed studies into the practices, structure and personnel of the Gestapo in many German cities have emerged. Scholars are mostly agreed that the Gestapo was understaffed. Elizabeth Kohlhaas has maintained that there were only 15,000 Gestapo officers serving in Germany in 1941: fewer than one Gestapo officer for every 25,000 Germans.²²⁶ Kohlhaas also brought to scholarly attention the decline in the number of Gestapo officers stationed in the Reich in the final years of the war, despite the escalation of terror directed at Germans.²²⁷ The circumstances of war, particularly the precarious security situation in much of occupied Europe, demanded that Gestapo officers were increasingly transferred to Security Police Offices in the occupied territories. By 1944 the number of Gestapo officers had reached a peak of some 31,000. Significantly, less than half of this number were actually stationed in Germany, the majority were detailed to offices in occupied Europe.²²⁸ Studies from cities and areas as diverse as Leipzig, Brandenburg and Brunswick, and Würzburg have demonstrated that understaffing was a consistent problem, common to all Gestapo offices.²²⁹

The work of Robert Gellately on the files of the Würzburg Gestapo has also done much to alter established scholarly perceptions of Gestapo practice.²³⁰ Gellately's detailed investigation of the workings of the Gestapo in Franconia challenged the perception of a strictly regimented totalitarian society, cowed into submission through the use of

²²⁶ Kohlhaas, E., Die Mitarbeiter der regionalen Staatspolizeistellen zur Personalausstattung der Gestapo' in Mallmann, K., & Paul, G., (eds.) *Die Gestapo: Mythos und Realität*, p. 227.

²²⁷ Kohlhaas, E., Die Mitarbeiter der regionalen Staatspolizeistellen zur Personalausstattung der Gestapo', p. 226.

²²⁸ Kohlhaas, E., Die Mitarbeiter der regionalen Staatspolizeistellen zur Personalausstattung der Gestapo', p. 225.

²²⁹ For references to the low staffing levels in Leipzig, where a third of officers (122 in total) responsible for the 5 million strong population of Saxony were based; see, Schmid, H., *Gestapo Leipzig*, pp. 20 - 22; For references to Brandenburg see Dietrich, M., & Eichholtz, D., 'Soziale Umbrüche in Brandenburg 1943-1945' in Berlekamp, B., & Röhr, W., (eds.), *Terror, Herrschaft und Alltag im Nationalsozialismus: Probleme einer Sozialgeschichte des deutschen Faschismus*, (Münster, 1995), p. 134; and Würzburg in which 22 officers (reduced in the final years of the war to 18 officers) surveyed the political behaviour of the 840,000 population of Lower Franconia see, Paul, G., 'Kontinuität und Radikalisierung : Die Staatspolizeistelle Würzburg.' in Mallmann, K., & Paul, G., (eds.) *Die Gestapo: Mythos und Realität*, pp. 164 - 165.

²³⁰ Gellately, R., *The Gestapo and German Society*, *passim*.

indiscriminate terror. Gellately, like others before him, argued that Gestapo terror was selectively targeted. However, he laid new emphasis on the importance of civilian denunciation to the maintenance of control. The political police, he argued, was a largely reactive organisation, dependent on the active collaboration of ordinary Germans in the persecution of known and perceived enemies. Gellately has since refined his argument further and pointed to not only the public knowledge of terror but the considerable popular support for Nazism terroristic practice.²³¹

Gellately's conclusions have found an echo in the writings of the American historian, Eric Johnson.²³² Working extensively with information gathered from interviews conducted with a large number of perpetrators and victims of Nazi persecution, as well as ordinary Germans living in the Cologne area, Johnson presented a compelling analysis of Nazi terror. Like others before him, Johnson has argued that the Gestapo's exercise of terror was differentiated and attuned to the perceived threat posed by enemy groups.²³³ His conclusions have substantiated many of Gellately's earlier findings. However, in comparison to Gellately, Johnson was keen to emphasise the proactive role of the Gestapo in the persecution of the political left.²³⁴ However, his most recent research has led him to reassess his initial conclusions.²³⁵ For Johnson, denunciation played a more important role in the maintenance of Nazi rule than he had assumed. Furthermore, he has argued that knowledge and acceptance of Nazi terror were widespread. By contrast, police terror was selectively targeted only at a very small number of groups. Most Germans, he now contends, even those who had once belonged to oppositional groups lived with considerable freedoms and little fear for the twelve years of the Third Reich's existence.²³⁶

The German historians Klaus-Michael Mallmann and Gerhard Paul have offered an

²³¹ Gellately, R., *Backing Hitler*, passim.

²³² Johnson, E., *The Nazi Terror*, passim.

²³³ Johnson, E., *The Nazi Terror*, pp. 484 - 485.

²³⁴ Johnson, E., *The Nazi Terror*, pp. 161 - 194.

²³⁵ Johnson, E., *What We Knew*, passim

²³⁶ Johnson, E., *What We Knew*, pp. 387 - 398.

interpretation of Gestapo practice that is altogether more differentiated.²³⁷ They have accepted certain of Gellately and Johnson's findings, particularly the importance of denunciation especially to the revelation of seemingly private 'crimes'. However, they have been keen to emphasise the disparities in Gestapo practice, pointing to regional variations in the treatment of enemy groups. More importantly, they have highlighted the brutality of Gestapo practice, whilst acknowledging its limited exercise. Their particular line of interpretation is though open to question. They fail to account for the Gestapo's use of violence and perhaps underestimate its extent and its effect, laying too great an emphasis on the willing docility of the German civilian population.

Whereas many scholars have emphasised the importance of denunciation instead of the efficiency of the Gestapo claiming that as many as forty per cent of investigations were initiated by a private denunciation,²³⁸ new work by Ludwig Eiber on the files of the Hamburg Gestapo has revealed that the Gestapo was not reliant on external denunciation for the repression of opposition groups; the primary role of the Gestapo.²³⁹ Through a series of targeted strikes at specific groups and known 'red' areas of the port city, the Gestapo in Hamburg was quickly able to debilitate centres of possible opposition within two years of coming to power and ensure their strict control thereafter (see also pp. 193 - 194).²⁴⁰

Attempts to establish a network of cells among dock workers were uncovered and broken in 1936, 1939 and 1941.²⁴¹ The establishment of a relatively comprehensive network of

²³⁷ See Mallmann, K., & Paul, G., *Herrschaft und Alltag, passim*; Mallmann, K., & Paul, G., (eds.), *Die Gestapo: Mythos und Realität, passim*; and Mallmann, K., & Paul, G., (eds.), *Die Gestapo im Zweiten Weltkrieg; "Heimatfront" und besetztes Europa, passim*.

²³⁸ Mann points to a proven figure of 26% of all investigations as triggered by denunciations directly from members of the general public. If presumed denunciations are also taken into account - as the incriminating evidence could only have stemmed from a source known to the accused - then the figure rises to about 40%. Mann, R., *Protest und Kontrolle im Dritten Reich*, pp. 291 - 295; and Gellately, R., *The Gestapo and German Society*, pp. 144 - 156.

²³⁹ Eiber, L., 'Zur Effektivität der Gestapo und der Funktion der Gestapo im faschistischen Terrorsystem: Anmerkungen zum Referat von Gerhard Paul', in Berlekamp, B., & Röhr, W., (eds.), *Terror, Herrschaft und Alltag im Nationalsozialismus*, p. 185.

²⁴⁰ Eiber, L., 'Zur Effektivität der Gestapo und der Funktion der Gestapo im faschistischen Terrorsystem', pp. 186 - 187.

²⁴¹ Eiber, L., 'Arbeiteropposition im Betrieb: Spielräume und Grenzen. Am Beispiel der Hamburger Hafen- und Werftarbeiter' in Schmiechen-Ackermann, D., (ed.) *Anpassung, Verweigerung, Widerstand*, (Berlin, 1997), pp. 276 - 280.

paid informants and V-men in areas traditionally hostile to Nazism enabled the suppression of elements hostile to the regime.

This thesis draws on the findings of Browder, Kohlhaas and Eiber, in particular, to present the Gestapo as a small, professional if ideologised police force proactive in the persecution of organised dissent. It will show that the constraints caused by manpower shortages were largely theoretical and rarely impeded officers in the fulfilment of their duties. Indeed, they were overcome through collaboration with other Nazi agencies, as we saw in chapter one, or were negated through the Gestapo's own brutal practice. It also accepts without question that Gestapo terror was both selective and targeted. However, it will not go as far as either Gellately or Johnson in the claims made of the extent of this selectivity or the freedoms consequently allowed to ordinary Germans. Instead, it will argue that Gestapo practice was, in this respect, differentiated and influenced by both local circumstances, ideology and individual prerogatives.

Foundation and Development

The Gestapo existed at the very apex of the Nazi terror apparatus. It is its practices after 1941 and their effect on the wider German population that will form the fulcrum of this chapter. By 1941 the Gestapo occupied a position of almost unrivalled power within Nazi governance. Gestapo officers were subordinate only to their superiors and, ultimately Nazi ideology and Hitler. Rank, prestige and social status provided no protection from the prying eyes of the political police, as the role of the Gestapo in both the Blomberg and Fritsch scandals of the winter of 1937/1938 demonstrate. The compromising information provided by the Gestapo led to the downfall of the Minister of War and one of Germany's most senior generals respectively. The legal basis of the Gestapo was provided for in two laws passed in the first months of 1933. The freedoms allowed to the Gestapo through the abolition of the rights of the individual were set down in the Reichstag Fire Decree of February 28th 1933. The 'Law for the Organisation of a Secret Security Police' (*Gesetz für*

die Organisierung eine Geheime Staatspolizei) of 26th April of that year set out the organisational framework and remit of the Gestapo. It placed the Secret Security Police under the direct control of Hermann Göring and established in law a pattern of patronage which would later reach its high point under Himmler's leadership of the German police.

The beginnings of the Gestapo were modest. Its origins are not to be found amid the ideological fervour of the NSDAP but in the institutions of the Weimar Republic. The Gestapo grew out of an office of some thirty-five officers attached to the Berlin Police Presidium of the Prussian Police and detailed to survey political groupings in the Weimar Republic.²⁴² Under the leadership of the ambitious, National-Conservative, career policeman, Rudolf Diels, the then *Geheimes Staatspolizeiamt* (Secret State Police Office) of the Prussian police proved itself to be a willing and effective servant of the newly appointed Prussian Prime Minister, Hermann Göring, in his struggle against political enemies in the largest of the German states.²⁴³ Its role was the product of necessity. Only the political police were privy to the detailed information on activists and organisations necessary to combat opposition to Nazi rule, regardless of the ability of the SA and other Nazi formations to terrorise possible opposition on the streets. The files kept by the political police not just in Prussia but in all of the German states on the political parties of the Weimar Republic and the expertise of the officers who staffed those offices proved invaluable in the smashing of opposition groups in the first months of Nazi rule.

Although the institutional history of the Gestapo is convoluted, its remit had been made clear both in statute and the official toleration of barbaric practice from the outset of Nazi

²⁴² Graf, C., "Kontinuität und Bruch" Von der politischen Polizei der Weimarer Republik zur geheimen Staatspolizei' in in Schmiechen-Ackermann, D., (ed.) *Anpassung, Verweigerung, Widerstand*, (Berlin, 1997), p. 75.

²⁴³ Graf, C., "Kontinuität und Bruch", p. 77.

rule.²⁴⁴ A series of speeches and new laws issued by the political leadership (particularly Hitler and Göring) during the first months of 1933 demanded the destruction of all enemies of the state. A decree directed by Göring at Prussian police chiefs published on 17th February 1933 demanded that the police employ the 'sharpest measures' against would-be opponents.²⁴⁵ Only a few weeks thereafter in a speech to police officers in Essen on 10th March, he declared 'You can settle your accounts with traitors'.²⁴⁶ The effect of the violence inherent in such statements was cumulative, and combined with the revocation of all personal liberties and safeguards through the Reichstag Fire Decree and the slow, but certain dismantling of the checks and balances of the Weimar system, left few policemen in doubt of their role within the new Nazi order.

Like so many other institutions of the Weimar state once committed to the ostensible defence of Weimar democracy, the German political police forces proved willing to accommodate the demands of the new regime. Many police officers had held views which verged on the nationalistic right, and had only been prevented from joining the NSDAP before 1933 through a partial prohibition on policemen joining the party.²⁴⁷ They believed the political left to be responsible both for the growth of disorder and criminality, and the restrictions on police power which it was widely believed had rendered the police helpless in the face of rising crime.²⁴⁸ These frequently disgruntled and embittered police officers were then effectively turned loose without legal constraint on their hitherto tormenters. The Gestapo thus came to be staffed by large numbers of highly skilled professionals who were willing to accept the political determinism of the Hitler government and locate crime on the political left.

²⁴⁴ This attitude was perhaps best encapsulated in a memorandum sent by Himmler to Interior minister Frick shortly after his appointment as chief of the German Police. He wrote 'die nationalsozialistische Polizei hat zwei Aufgaben. a) Die Polizei hat den Willen der Staatsführung zu vollziehen und die von ihr gewollte Ordnung zu schaffen und aufrecht zu erhalten. b) Die Polizei hat das deutsche Volk als organisches Gesamtwesen, seine Lebenskraft und seine Einrichtungen gegen Zerstörungen und Zersetzung zu sichern. Die Befugnisse einer Polizei, der diese Aufgaben gestellt sind, können nicht einschränkend aufgelegt werden'. Cited in Berschel, H., *Bürokratie und Terror*, p. 46.

²⁴⁵ Gellately, R., *Backing Hitler*, p. 17.

²⁴⁶ Noakes, J., & Pridham, G., *Nazism 1919-1945: Vol. 1. The Rise to Power*, (Exeter, 1998), p. 151.

²⁴⁷ Browder, G., *Hitler's Enforcers*, pp. 26-28.

²⁴⁸ Evans, R., *The coming of the Third Reich*, p. 273.

The continuity of police personnel between the old and new order was considerable. Social-democratic, Weimar appointees had been few in number despite widespread claims to the contrary by both the NSDAP, National Conservatives and right-wing press. The purging of politically 'unreliable' elements within the German police forces which had been vociferously demanded by the Nazi leadership both before and after the Nazi ascent to power, was limited in its effect. The number of policemen dismissed was small, estimated to have been no more than about 2% of the entire police force,²⁴⁹ a figure which corresponded exactly with that for the Civil Service in general.²⁵⁰ Speculation at the politicalisation of the supposed unpolitical police forces of the Weimar Republic had rested on a small number of high level appointments of Social-democrats and Catholics to senior positions in the police in Berlin and the cities of the Rhineland and Ruhr. Ultimately, only twelve senior police chiefs were dismissed for their supposed political unreliability.²⁵¹

The case of Heinrich Müller, later head of the Gestapo is indicative of the willingness of professional police officers not only to accept the change in political leadership but to work unquestioningly towards a new and very different set of goals. Müller, had long served as an expert on Communist affairs in the Bavarian political police. He was by an inclination a nationalist and no fan of Nazism. Müller had famously demanded that he and his fellow officers take up arms to defend police headquarters in Munich from the possibility of attack by SA men in March 1933.²⁵² However, his services were retained by the new head of the Bavarian Political Police and Chief of the SD, Reinhard Heydrich, who recognised Müller's professionalism and importantly, for the purposes of this thesis, his effectivity as a political policeman.²⁵³ Müller became a loyal and eventually fanatical follower of Hitlerism and his loyalty to the Führer was unwavering until the end, despite uncorroborated claims that he was a paid agent of the Soviet Union.

²⁴⁹ Browder, G., *Hitler's Enforcers*, p. 29. Estimate based on figures for Bavaria alone.

²⁵⁰ Evans, R., *The Coming of the Third Reich*, (London, 2003). p. 383.

²⁵¹ Browder, G., *Hitler's Enforcers*, pp. 16-19.

²⁵² Seeger, A., 'Vom bayerischen "Systembeamten" zum Chef der Gestapo. Zur Person und Tätigkeit Heinrich Müllers (1900-1945)' in Mallmann, K., & Paul, G., (eds.) *Die Gestapo. Mythos und Realität*, p. 256.

²⁵³ Seeger, A., 'Vom bayerischen "Systembeamten" zum Chef der Gestapo', p. 259.

The effectiveness of the political police officers in the individual German states in combating perceived political enemies was invaluable to Germany's new political masters and their offices were rapidly expanded.²⁵⁴ By 1937 the Gestapo employed some 7,000 personnel.²⁵⁵ In 1944 it could count some 31,000 employees,²⁵⁶ the majority of whom were stationed throughout occupied Europe. Despite this numerically substantive increase, the Gestapo was a small organisation and manpower remained a constant concern to senior officers. However, we should be wary of attaching too much significance to staffing levels, as certain historians have done in order to speculate on the unproven freedom allowed to Germans under Nazism.²⁵⁷ There is little convincing evidence to suggest that the Gestapo was overwhelmed by the volume of work with which it was presented. As we noted in chapter one, the Gestapo was part of a far larger terror apparatus. In times of need it could call on the resources of both the Kripo, Orpo and SA volunteers.

Towards an Ideologically Radical Political Police Force

The history of the Gestapo and its growth as a national political police force is complicated and a clear developmental trajectory is difficult to chart. It is perhaps best refracted through the personal ambitions and ideological zeal of Heinrich Himmler rather than an institutional rationale.²⁵⁸ The Gestapo was subjected to the merging of personal, state and party offices which characterised Hitlerian governance.²⁵⁹ Jurisdictions were never adequately defined in a system in which all power increasingly rested on the person of Adolf Hitler rather than the

²⁵⁴ Padfield, P., *Himmler: Reichsführer SS*, (London, 2001), p. 164.

²⁵⁵ Browder, G., *Hitler's Enforcers*, p. 63.

²⁵⁶ Kohlhaas, E., 'Die Mitarbeiter der regionalen Staatspolizeistellen zur Personalausstattung der Gestapo', p. 224.

²⁵⁷ See Gellately, R., *The Gestapo and German society, passim*; & Johnson, E., *The Nazi Terror, passim*. In each of the works cited Gestapo numbers have been employed to question the effectivity of the political police. Instead these writers have placed emphasis on the collaboration of 'ordinary' Germans in the maintenance of Nazi ordinances, see pp. 72 - 73.

²⁵⁸ Neumann, F., *Behemoth: Struktur und Praxis des Nationalsozialismus 1933-1944*, trans. Wagner, H., & Schäfer, G., (Frankfurt am Main, 1977), pp. 572 - 576.

²⁵⁹ Padfield, P., *Himmler: Reichsführer SS*, pp. 142 - 145.

institutions of state.²⁶⁰ It is, however, clear that the changes to the status and structure of the Gestapo served only to radicalise police practice and make the persecution of opponents more effective through the freeing of the Gestapo from all legal accountability rather than diluting Gestapo effectivity in a sea of bureaucratic confusion. The naming of Himmler as Chief of the German Police and Reichsführer SS in 1936 recognised the *de facto* accumulation of police power by Himmler and paved the way for future radicalisation of police practices. His appointment to this newly created post was indicative of a process and system of government that rewarded loyalty and initiative but was also intended to ensure that all state and party functionaries worked towards the implementation of the Führer's will.²⁶¹

Himmler's appointment as chief both of the German police and the SS accelerated the process of merger between the Gestapo and the SS which had been existent since his appointment as chief of the Munich police in March 1933 and had gathered pace as Himmler's power grew through the acquisition of further police appointments in the twelve months thereafter.²⁶² In July 1934 Himmler wrested control of the Prussian Police from Göring and in doing so established his hegemony over Germany's security apparatus. In a concerted effort to ensure the loyalty of police officers to his own person, Himmler encouraged Germany's policemen to take honorary positions in the SS, blurring the boundaries between the two organisations and binding officers to an increasingly, radical ideology. Himmler also appointed members of the SS under his command since 1930, and, particularly, its intelligence gathering wing the SD (Security Service - *Sicherheitsdienst*), to leading positions within the Gestapo. This merging of vitally important party and state organisations helped to strengthen the position of Himmler *vis a vis* other Nazi leaders and ensured that the political police was imbued with the correct ideological character.²⁶³ This merging of party and state organisations became complete with the formation Reich Security Main Office (*Reichssicherheitshauptamt - RSHA*) in September 1939 which finally,

²⁶⁰ Mommsen, H., *Von Weimar nach Auschwitz*, (Stuttgart, 1999), pp. 214 - 248.

²⁶¹ Kershaw, I., *Hitler: Nemesis 1936-1945*, (London, 2000), pp. xlv - xlvi.

²⁶² Burleigh, M., *The Third Reich*, pp. 180 - 182.

²⁶³ Browder, G., *Hitler's Enforcers*, pp. 140 - 142.

and for Nazism's opponents, lethally brought together the offices of the Gestapo, Kripo and SD.

The growing radicalisation of the Gestapo was in no small part precipitated by the employment of young Nazi ideologues. The numerical expansion of the Gestapo created opportunities of employment for a new generation of young, educated Nazis, who, unable to find work during the economic depression, had found solace in the pretentious elitism of the SS. Many of these young men had felt shunned by the policies and opportunities offered by the Weimar state and had moved to the radical right during their time in further education and, in some cases, during periods of unemployment thereafter.²⁶⁴ The possibility of rapid career advancement and the security of employment in the public service offered by the expansion of the police, proved alluring to many of the educated young radicals who later occupied positions of power in the police.²⁶⁵ The cases of Hans Dunckem and Fritz Weitzel, respectively appointed Gestapo chiefs of Cologne and Düsseldorf in 1936, were indicative of this trend. Both men had studied law at university but had failed to establish careers in that profession. Embittered with their lack of opportunity and angry at Germany's perceived misfortune, they had become convinced followers of Nazism and members of the SS. They wholeheartedly believed in the extreme doctrines propounded by Himmler. Young radicals like Dunckem and Weitzel - both were under 30 years old at the time of their appointment - came to occupy positions of considerable authority in the Political Police, ensuring that Gestapo action was shaped by an increasingly radical, ideological zeal, driven in equal measure by personal ambition and political determinism.²⁶⁶

²⁶⁴ Johnson, E., *The Nazi Terror: Gestapo*, pp. 77 - 78.

²⁶⁵ Mallmann, K., & Paul, G., *Herrschaft und Alltag: Ein Industrieviertel im Dritten Reich. Widerstand und Verweigerung im Saarland 1935-1945. Band i.*, pp. 208 - 209.

²⁶⁶ Zipfel, F., 'Gestapo and the SD. A Sociological Profile of the Organisers of Terror' in Larsen, S., Hagvet, B., & Myklebust, J., (eds.) *Who Were the Fascists: The Social Roots of European Fascism*, (Oslo, 1980,) p. 302.

An ever expanding Jurisdiction

Despite the extraordinary freedoms granted to the Gestapo, certain restrictions on Gestapo practice, both practical and theoretical, remained in place. Mostly, these took the form of personal interventions by leading Nazis and government ministries rather than an adherence to those provisos in the nominally still existing Weimar constitution safeguarding citizens from extremes of police practice. The interference of the Gestapo in areas of traditional ministerial jurisdiction was the cause of some resentment. The Ministry of Justice was embroiled in a drawn out bureaucratic struggle with the Gestapo. Officials in the Ministry of Justice were angered by the the refusal of the Gestapo to recognise the sovereignty of court decisions and jurisdictions. The re-arrest and internment of men and women acquitted by the courts was the cause of much complaint. However, such practical restrictions neither compromised nor hindered the realisation of Nazi aims and were inevitably overcome.

Himmler's favour at the Hitlerian court ensured that the reservations of more legally minded members of government were easily overridden.²⁶⁷ Hitler's own innate suspicion of the bureaucratic and conservative establishment frequently worked in favour of the arbitrary measures advocated by Himmler and his subordinates.²⁶⁸ Both Göring (as early as 1934) and Hans Frank had called on restrictions on the imposition of protective custody at different times. Göring worried about the effects of the, at times, seemingly indiscriminate arrest and detainment of Germans, calling for all internments to be reported to the courts within twenty-four hours of their arrest.²⁶⁹ Frank's growing discomfort at arbitrary police power led him to call for the introduction of both a clear legal framework and an independent judiciary in July 1942. In both instances Hitler sided with Himmler and refused to curb Gestapo powers. Frank was stripped of his judicial offices and forbidden from further comment on the subject.²⁷⁰ Driven by Himmler's, unwavering, loyalty to Hitler and his own burning ambition, the Gestapo benefited from a system which rewarded loyalty and initiative.

²⁶⁷ Kershaw, P., *Himmler: Reichsführer SS*, pp. 182 - 284.

²⁶⁸ Kershaw, I., *Hitler 1936 - 1945: Nemesis*, pp. 245 - 247.

²⁶⁹ Gruchmann, L., *Justiz im Dritten Reich*, pp. 546 - 547.

²⁷⁰ Ortner, H., *Die Hinrichter: Mörder im Dienste Hitlers*, (Vienna, 1993), p. 124.

Judicial grumbling at the arrest of persons acquitted by the courts was finally surmounted in the summer of 1938 when the Minister of Justice, Fritz Gürtner, ceded to the Gestapo the right to arrest and intern at will those they deemed guilty and culpable of antagonistic, political behaviour, regardless of judicial procedure and conclusions.²⁷¹ The refusal of the Gestapo to abandon certain practices in the face of pressure from other government departments also led to the *post facto* legalisation of those practices. The recognition of the need for the use of torture by Justice Minister Gürtner in 1934 is indicative of that trend and culminated in the issue of an edict codifying the use of torture on 12th July 1942.²⁷² Similarly, the willingness of the Gestapo and SD leaders to seize the initiative also led to increases in Gestapo authority. As we noted, the mass arrest German Jews on the order of Reinhard Heydrich in the aftermath of *Reichskristallnacht* and the success of Adolf Eichmann's Jewish Emigration Office in Vienna following the *Anschluß* with Austria, firmly established the Gestapo and SS as the institutions best suited to deal with anti-Jewish policy. This fact was later recognised in Göring's transfer of control of Jewish policy from his own office as Plenipotentiary for the Four Year Plan to those of Heydrich in 1939. The involvement of the Gestapo in this most radical and, ultimately, lethal area of Nazi policy contributed to the increasingly violent and arbitrary treatment of other population groups during the war.

New wartime legislation criminalised many aspects of everyday life and brought a growing number of Germans into the orbit of the state and the Gestapo. Restrictions were placed on economic business, fraternisation with POWs and forced labourers and more frequently the expression of defeatist or critical sentiment. Sentences for infringements of the wartime statute were severe. Laws announced by Reich Propaganda Minister Goebbels in the autumn of 1939 forbade the listening of foreign radio broadcasts on pain of death. Nazi, Darwinist understandings of law and the conceptualisation of the war as a struggle for national survival, determined that these 'crimes' were defined as political offences and thus

²⁷¹ Gruchmann, L., *Justiz im Dritten Reich*, p. 561.

²⁷² Tüchel, J., 'Zwischen kriminalistischer Recherche und brutaler Folter: Zur Tätigkeit der Gestapo - "Sonderkommission Rote Kapelle"' in Mallmann, K., & Paul, G., (eds.) *Die Gestapo: Mythos und Realität*, p. 379.

fell within the remit of the Gestapo rather than the criminal police. Both Heydrich and Himmler used the declaration of war to strengthen their own positions in relation to other leading figures in government.

On 3rd September 1939, Heydrich, with the backing of Himmler and Hitler who had ordered Himmler to take 'all necessary measures' to combat domestic enemies, announced a considerable expansion of Gestapo authority.²⁷³ Jurisdiction for certain areas of 'crime', including theft and black-marketeering, was transferred from both the Orpo and Kripo to the political police. Any need for resort to the legal system was also removed.²⁷⁴ The Gestapo had become prosecutor, juror and judge. Within weeks of Heydrich's edict, Himmler too, had issued two further decrees with the clear support of Hitler. The first - the consequence of a Hitler speech on 13th October 1939 - granted the Gestapo the power to 'correct' custodial sentences and judicial decisions, effectively transferring the fates of all prisoners from the Ministry of Justice and the prison system to the most radical of Nazi institutions: the SS and Gestapo. Himmler's second decree assumed responsibility for foreign workers on German soil, subjecting mostly former Prisoners of War to brutal police justice and massively expanding the influence of the political police beyond the realm of political 'crime' and into the world of economic management.

An all powerful Political Police

Gestapo terror and authority reached their high point in the years 1941-45. Although wartime decrees of 1939 and 1940 had borne a massive increase in Gestapo power and influence, the invasion of the Soviet Union on the 22nd June 1941 better marks the radicalisation of Gestapo activities, particularly in relation to Germans. The later war years saw little change to the legal position of the Gestapo, but a paradigm shift in its terroristic practice, provided for in a linguistic framework set down by Nazi leaders who urged the ever more brutal treatment of dissenters, waverers and doubters. In the weeks leading up

²⁷³ Gruchmann, L., *Justiz im Dritten Reich*, p. 647.

²⁷⁴ Gellately, R., *Backing Hitler*, pp. 73 - 75.

to the invasion of the Soviet Union, two hundred and seventy known Communists were arrested and interned in a pre-emptive strike intended to nullify any possible rebellion from the KPD.²⁷⁵ Similarly, Mallmann and Paul have recorded a tenfold increase in the number of arrests of opponents of the regime in the Saar in the two years immediately after the invasion.²⁷⁶ In the years after the invasion of the Soviet Union Germany came close to the police state of imagination. The changes to Gestapo activities and the radicalisation of its practice were determined by specific circumstances. Although at the time of the invasion of the Soviet Union, the person of Hitler and to a lesser extent the Nazi regime enjoyed huge support and popularity,²⁷⁷ the failure to defeat Britain, the embarkation on a two front war and a gradual but perceptibly worsening supply situation on the home front, necessitated, in the eyes of a leadership obsessed by the supposed treachery of the home population in 1918, that the home front be secured through increased discipline and the sanction of ever stiffer penalties for infringements of an already draconian legal code.²⁷⁸

The Gestapo stood at the forefront of a campaign to maintain discipline through the use of increasingly unrestrained terror,²⁷⁹ and minor infringements of the law were prosecuted by the Gestapo with utmost severity. Large numbers of Germans were arrested and interned on the slightest suspicion of oppositional activity. The executions of enemies, both judicial and extra-judicial, had become commonplace during the war and the Gestapo and the courts conspired to send thousands of Germans to their deaths.²⁸⁰ Prisoners interned in German concentration camps, either as a result of judicial sentence or through the sole intervention of the Gestapo, stood ever less chance of survival and although the Gestapo no direct jurisdiction over the concentration camps despite the merging of many SS and police offices, officers were aware of the fate that awaited those they delivered into SS custody. Political prisoners were no longer released on completion of their custodial

²⁷⁵ Lang, J., *Die Gestapo: Instrument des Terrors*, (Hamburg, 1990), p. 212.

²⁷⁶ Mallmann, K., & Paul, G., *Herrschaft und Alltag: Ein Industrieviertel im Dritten Reich. Widerstand und Verweigerung im Saarland 1935-1945. Band I.*, p. 262.

²⁷⁷ Kershaw, I., *The Hitler Myth*, p. 169.

²⁷⁸ Gellately, R., *Backing Hitler*, pp. 73 - 75.

²⁷⁹ Kershaw, I., *Hitler 1936 - 1945: Nemesis* pp. 505 - 507.

²⁸⁰ Wachsmann, N., *Hitler's Prisons*, p. 376.

sentences and were interned indefinitely in concentration camps under the terms of a Heydrich edict of 24th October 1939.²⁸¹ Many were worked to death or shot out of hand.²⁸² The gradual collapse of German military success, the deterioration of the conditions on the Home Front and, notably, the failed attempt to assassinate Hitler on the 20th July 1944 all led to further increases in repression and to a further radicalisation of Gestapo practices.²⁸³

The surviving Düsseldorf Gestapo files point to a significant increase in the number of arrests in the final years of the war. The sum of those arrested and punished by the Gestapo remains unknown as many records were damaged in bombing raids or were consciously destroyed by the Gestapo to obfuscate Gestapo crimes. However, most historians are now agreed that many hundreds of thousands of Germans were arrested by the Gestapo during the final two years of fighting.²⁸⁴ In the last months of the war, as the Allied armies pushed the Wehrmacht and SS divisions responsible for the defence of the Reich ever deeper into Germany, arbitrary Gestapo terror became an everyday experience for Germans in towns and cities across the Reich.²⁸⁵ Although many other areas of government had effectively ceased to exist, the Gestapo continued to function.²⁸⁶ Its officers, mostly equipped with forged papers and identities for a future without Hitler, continued to enforce orders until the last.²⁸⁷ Prisoners were executed by Gestapo killing squads in all of Germany's large cities, most notoriously however, in Leipzig, Essen, Dortmund and Düsseldorf. During the final months of the war unknown numbers of Germans brought before mobile police courts faced the prospect of acquittal or immediate execution.²⁸⁸ Across the Reich the possibility of early surrenders were pre-empted by roving Gestapo men, backed up by SS die-hards and party loyalists, who tried those suspected of Defeatism or having made overtures to Allied forces and immediately

²⁸¹ Gellately, R., *Backing Hitler*, p. 74.

²⁸² Wachsmann, N., *Hitler's Prisons*, pp. 284 - 299.

²⁸³ Johnson, E., *The Nazi Terror*, pp. 311 - 351.

²⁸⁴ Gellately, R., *Backing Hitler*, p. 72.

²⁸⁵ Beevor, A., *Berlin: The Downfall 1945*, (London, 2002), p. 260.

²⁸⁶ Berschel, H., *Bürokratie und Terror*, pp. 85 - 86.

²⁸⁷ Schmid, H., *Gestapo Leipzig: Die Politische Abteilung des Polizeipräsidiums Leipzig 1933-1945*, p 67.

²⁸⁸ Gellately, R., *Backing Hitler*, p. 230.

executed those found guilty. Even those accused of petty crimes, such as theft were shown no quarter and were hanged or shot. As Hitler's Third Reich crumbled, its enforcers, answerable to no-one, ensured through the brutality of their action, that the much feared collapse of the Home Front did not occur.

A Very Effective Police Force

The Düsseldorf Gestapo office was the largest outside of Berlin and functioned as the police headquarters for Westphalia. It was responsible for an area that stretched for more than 100 miles from north to south and from the Dutch border in the west to Essen in the east. It monitored the political behaviour of some 4.1 million German citizens, three million of whom lived in the large cities of the industrial Ruhr area: Essen, Wuppertal, Duisburg and Oberhausen and who had traditionally voted for the Zentrum and KPD, shunning Nazism.²⁸⁹ During the period considered from 1941 to 1945, the Düsseldorf Gestapo was not only responsible for the political persecution of opponents in the largest industrial area in Germany, but its officers were also charged with control of the border with the Netherlands, the persecution of the few remaining German Jews in the Ruhr area and exercised absolute sovereignty over one million forced foreign labourers working in the camps and factories of the Ruhr. Despite this large and difficult area of administration, the number of officers and administrative staff employed by the Düsseldorf Gestapo office and its satellites was small. In his wide ranging study of the Gestapo and the Nazi persecution of the Jews in Düsseldorf, Holger Berschel states that at its height in September 1941 the Düsseldorf Gestapo employed a total staff of 349 officers and administrative staff, of whom 126 members of staff worked directly in Düsseldorf.²⁹⁰ The rest were divided between various satellite offices in the main cities of Westphalia and a small number of border monitoring posts.

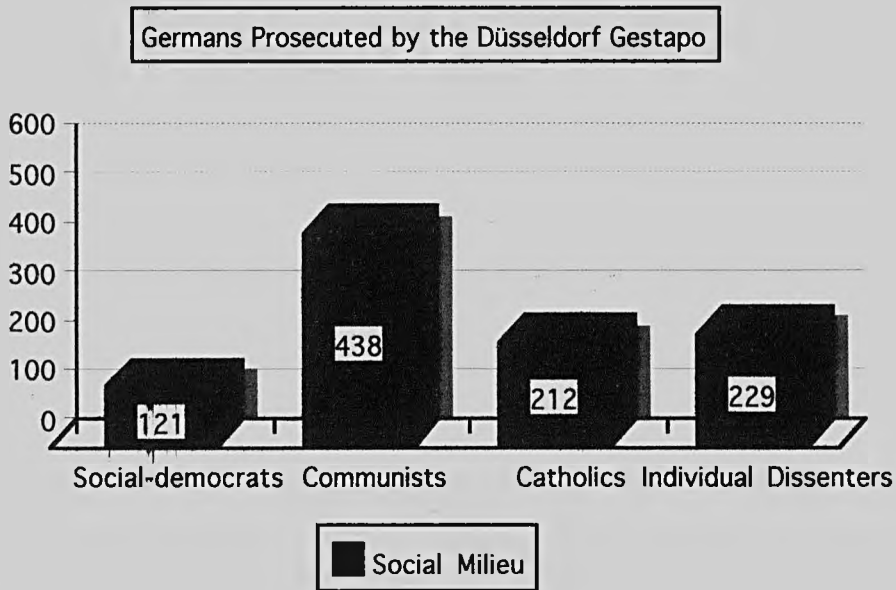
We should, however, remember that despite the relatively small number of personnel and

²⁸⁹ Berschel, H., *Bürokratie und Terror*, pp. 19 - 22.

²⁹⁰ Berschel, H., *Bürokratie und Terror*, p. 86.

the need to work at times with other Nazi bodies, the Düsseldorf Gestapo itself was extremely effective. It is telling of the Gestapo's success that the most concrete proof of dissent we have for the Düsseldorf area is derived mostly from the files of the Gestapo. Control was maintained throughout the Nazi period. Before the Nazi take-over of power, the cities of the Ruhr had shown little predisposition towards Nazism.²⁹¹ Indeed, a small majority of Westphalians were Catholic (56%) and had through their continued support of the Zentrum demonstrated themselves to be largely immune to the allure of National Socialism.²⁹² The major cities of the Ruhr also contained large and often radical, working-class populations. The share of the vote received by the SPD in Düsseldorf, as well as Essen and the other major cities of the Ruhr, was smaller than that of the KPD.²⁹³ Left-wing radicalism dominated the urban, political landscape. Additionally, the Free, Communist and Catholic trade unions could claim considerable followings and had proved themselves active in the defence of workers' rights during the turbulent years of the Weimar Republic.

Figure 2



²⁹¹ Steinberg, F., *Widerstand und Verfolgung in Essen 1933-45*, pp. 25 - 28.

²⁹² Steinberg, F., *Widerstand und Verfolgung in Essen 1933-45*, p. 31.

²⁹³ Mann, R., *Protest und Kontrolle*, p. 113.

As we shall see in later chapters, the labour movement was well organised. From sports clubs to choral associations and charitable organisations, a coherent and encompassing working class subculture existed in which, if the participant desired, he might immerse himself entirely.²⁹⁴

Despite this rich potential for dissent, the cities of the Ruhr remained firmly in the regime's control until their occupation by victorious Allied troops. Identified acts of dissent committed by Germans between 1941 and 1945 and examined in detail in later chapters rarely threatened the security of the regime, despite the growing desperation of the situation on both the home and fighting fronts. The 'crimes' prosecuted by the Gestapo in the Düsseldorf area mostly concerned the contravention of the Malice statute, grumbling at the supply of basic goods, listening to foreign radio broadcasts, and incidents of political association.²⁹⁵ Many of these 'crimes' were committed by former members of the three milieux most antagonistic towards Nazism before 1933.²⁹⁶ However, (as we shall see in chapter five) even the most serious incidents of Communist agitation posed little real threat to the regime. In most cases, attempts at oppositional organisation were uncovered in their infancy, preventing the emergence of any serious and cohesive opposition movement.²⁹⁷ The most serious acts of dissent concerned the production and distribution of propaganda, both written and oral, and attempts at the organisation and maintenance of oppositional cells.²⁹⁸ Although the nature of dissent changed little during the period, Gestapo terror and the penalties associated with dissent became increasingly severe.²⁹⁹ Indeed, between 1941 and 1945 all of the 'offences' listed above were specifically punishable with death.

The sheer volume of paper work generated by the Düsseldorf office and its satellites was enormous and speaks against accusations of reactive police practice which have been

²⁹⁴ Evans, R., *The Coming of the Third Reich*, p. 84.

²⁹⁵ Mann, R., *Protest und Kontrolle*, pp. 179 - 196

²⁹⁶ Mann, R., *Protest und Kontrolle*, p. 185.

²⁹⁷ Peukert, D., *Die KPD im Widerstand*, *passim*.

²⁹⁸ Peukert, D., *Inside Nazi Germany*, p. 125.

²⁹⁹ Gellately, R., *Backing Hitler*, pp. 82 - 83.

implied in some localised studies.³⁰⁰ During the twelve years of its existence, the Düsseldorf Gestapo compiled over 72,000 files on individuals and families (see pp. 34 - 36). However, the files are not a complete account of Gestapo activities during this time. They do not include the arbitrary arrests and executions of both Germans and foreign workers carried out in the final months of the war. Case files were also lost after the main Düsseldorf office suffered a direct hit during an Allied bombing raid and staff were forced to relocate to a school building in the Düsseldorf suburb of Ratingen. The threat of further bombing forced a second move to the suburb of Lohausen in November 1944. Despite, the limited resources available to the Gestapo, the files present little evidence of debilitation. Rather, they point to the effective and efficient use of those limited resources, manifest in the detection and destruction of Communist machination and the effective exercise of control of this vast area.

The effectivity of the Gestapo was in no small part ensured through its own violent practice. In the vast majority of cases, treatment at the hands of the Gestapo was brutal and traumatising in effect. The renunciation of long held political beliefs was only the result of considerable suffering, firstly, at the hands of the Gestapo and then under the jurisdiction of SS personnel in Germany's concentration camps. Those who did confront on more than one occasion belonged to a distinct hard-core of campaign hardened individuals whose opposition to Nazism was absolute and ongoing and, as we shall see, had little to gain from compromise with Nazism. The three record samples reveal numerous examples of dissenters who were warded away from further dissent by the experience of state organised persecution. The experiences of Matthias Dieck of Neuss, arrested by the Düsseldorf Gestapo in 1935 and recorded in his police file, is indicative of a great number of others.³⁰¹

We must, however, remember to exercise some caution when assessing the Gestapo's claims of success. Dieck, born in 1907, was a committed and long standing member of the

³⁰⁰ Gellately, R., *The Gestapo and German Society*, *passim*.

³⁰¹ HStA D: Gestapo 68141.

SPD. His involvement in the SPD and its affiliate organisations stretched back to 1926. In 1935 he was arrested and charged with membership of an illegal SPD group, the distribution of propaganda and the continued maintenance of SPD contacts. Dieck spent almost one year in police investigative custody. During this time he was no doubt tortured. Eventually convicted of Conspiracy to Commit Treason, Dieck spent six years in a concentration camp. A later addition to the file notes made after his release in 1941 noted that Dieck had become a diligent member of the 'National-community', disinclined to mix in politically dubious circles. It is impossible to know exactly how many Germans continued to commit acts of dissent successfully and covertly once released from Gestapo custody, but the great majority of cases surveyed indicate that experience of persecution was enough to deter most from further illegal activity.

The Exercise of Terror

Recent scholarship has done much to elucidate the Gestapo practice of selectively targeting terror at certain groups determined by both political and ideological factors as posing the greatest threat to the Nazi state. The limited resources available to Gestapo officers necessitated a strict policy of prioritisation.³⁰² Communists in particular, as well as Social-democrats and Catholics bore the brunt of this political determined terror. Other social and religious groups also suffered horrifically under Nazism. The practice of selective and targeted terror was the product of both necessity and circumstance. The fewer than five hundred Gestapo officers detailed to the Düsseldorf office were responsible for a population of some 4.1 million people. Furthermore, the expansion of the wartime legal code had led to a dramatic increase in the number of *political* 'crimes' investigated by the Gestapo and brought ever larger numbers of 'ordinary' Germans of all political and social hues into contact with the political police. Ideological priorities had also placed further limitations on police resources. After 1941 the deportation of German Jews and the treatment and control of foreign workers and POWs, particularly the many millions of Soviet prisoners taken prisoner on the Eastern Front, made ever greater demands on police time.

³⁰² For a fuller exposition see Mann, R., *Protest und Kontrolle*, *passim*.

It has been estimated that the control of foreign workers accounted for as much as half of police business between 1941 and 1945.³⁰³

In these circumstances; entirely rational decisions were made about the allocation of manpower and resources. The covert surveillance of suspected Communist groups was much less thorough between 1941 and 1945 than it had been before the outbreak of war, although, the destruction of German Communism remained a key Gestapo priority. Working-class oppositional groups had been broken with some ease and by 1936, the Gestapo, possibly keen to celebrate its own success, considered the threat posed by the KPD to be negligible, its structures broken.³⁰⁴ The KPD and its underground formations had been infiltrated in waves of covert operations in 1933, 1934, 1935. Further, albeit more limited, campaigns were launched in 1937, 1939 and 1941.³⁰⁵ By then, known Communist leaders were either dead, locked away, dispirited as the result of previous treatment at the hands of the Gestapo, or were under permanent surveillance. Although the KPD attempted to continue its Campaign of agitation unabated, the need to spread a surveillance net far and wide, as was once the case, had largely dissipated and resources were allocated accordingly.

The Gestapo's practice of selectively targeting terror was differentiated and functioned at many levels. Importantly, it was attuned to the community and individual to which it was directed. The Gestapo recognised that the experience of terror was relative; it affected individuals in different ways. Perceptions of terror are by nature different. For those from comfortable homes, unused to dealings with the authorities, the very threat of police intervention can be a terrifying prospect and a deterrent to further activity. There are numerous cases recorded in the files, of Düsseldorfers suspected of the perpetration of an act of dissent who were dissuaded from further action by a single confrontation with the Gestapo. Some files demonstrate that in dealings with the Catholic community, in which the local priest and his subordinates formed the nucleus and leadership of the community, a

³⁰³ Heusler, A., 'Prävention durch Terror', pp 223 - 229.

³⁰⁴ Peukert, D., *Inside Nazi Germany*, pp. 120 - 125.

³⁰⁵ See Peukert, D., *Die KPD im Widerstand*, *passim*.

formal interview and veiled threat might suffice.

A far harsher line was taken with those suspected or guilty of association with the KPD underground than other social or political groups. Former KPD functionaries were twice as likely to be arrested and interned as former SPD office holders,³⁰⁶ and, although Communists might not have been subjected to the same levels of surveillance and harassment that they had experienced before the outbreak of war, they were routinely singled out by the Gestapo for particularly brutal treatment (see tables 1, p. 50., and, 2, p. 56). Between 1941 and 1945 Communists faced almost certain punishment for minor misdemeanour. The reduction in the levels of police surveillance was matched by considerable increase in the brutality with which suspects were treated. Arbitrary arrest, torture, police beatings were commonplace. As were long periods of internment and custodial punishment. Indeed, previous KPD membership could condemn Germans suspected of an essentially trivial 'crime' to a most severe sentence. The brutal treatment of Communists was intended to deter potential dissenters from the most radical of oppositional milieu from countenancing similar actions.

Table 4

Social Class and Dissent

N.B. percentages refer to each individual milieu

	Working-class (incl. the rural poor)	Middle-class	Upper-class
Social-democrats	257 (90.1%)	28 (9.9%)	—
Communists	1061 (98.9%)	12 (1.1%)	—
Catholics	549 (73.8%)	179 (24.1%)	16 (2.1%)
Individuals	637 (70.9%)	248 (27.7)	13 (1.4%)

³⁰⁶ Mallmann, K., & Paul, G., *Ein Industrieviertel im Dritten Reich. Widerstand und Verweigerung im Saarland 1935-1945. Band I.*, p. 250.

The most brutal treatment was reserved for recidivist offenders, those Germans with long histories of political agitation or criminality. As we shall see in later chapters, groups of die-hard dissenters existed; they routinely confronted the authorities, unable to break from long established patterns of behaviour and motivated by deep-seated ideological and moral beliefs. Many Germans raised in the radical and often violent milieu of the poor, KPD voting inner-cities (see pp. 188 - 198, and tables 9, p. 189., and, 10, p. 196) had lost their respect and fear of authority as a consequence of the visceral experience of street-battles and police brutality which marred the final years of the Weimar Republic and the transition from democracy to Hitlerian dictatorship.³⁰⁷ The files of the Düsseldorf Gestapo make reference to their 'hardened criminal nature' (see table 3, p. 62) and the need for 'Special treatment'. Those not sentenced to death for often trivial misdemeanour were subjected to long periods in police custody, torture, stiff sentences and internment in concentration camps. A warning from the police was unlikely to deter members of this core group.

Denunciation as a Weapon of Vengeance

As we noted earlier, the significance of denunciations from the public to the practice of the Gestapo has been the subject of considerable recent scholarly attention.³⁰⁸ Heydrich had complained in the initial months of the war that the flood of denunciations from the public threatened to overwhelm the Gestapo: having once sought to make denunciation a duty to all Reich citizens over the age of 18, he actively moved to prevent any codification of

³⁰⁷ Peukert, D., *Inside the Third Reich*, p. 121.

³⁰⁸ See Gellately, R., *The Gestapo and German Society, passim*, in which Gellately first comprehensively mooted the notion of a denunciatory society, also Gellately, R., *Backing Hitler*. Mallmann, K., & Paul, G., *Alltag und Herrschaft. Band I, & II*, also gives prominence to the importance of denunciation in the maintenance of control in the Saar. The two volumes of Mallmann, K., & Paul, G., (eds.) *Die Gestapo*, and Rockenmaier, D., *Denunzianten: 47 Fallgeschichten aus dem Akten der Gestapo in Mainfranken*, (Würzburg, 1998), which records forty-seven incidents of denunciation also point to the importance of denunciation to Gestapo practice. Johnson, E., *The Nazi Terror*, also examines denunciation in the context of Nazi Jewish-policy. The conclusions reached in these works have pointed to a society built on denunciation.

denunciation.³⁰⁹ Almost half of the total number of Düsseldorf Gestapo cases surveyed were the consequence of a possible private denunciation (four hundred and twenty-seven - 42.7%- cases). Those population groups regarded as 'outsiders' or 'other' were particularly likely to be the victims of pernicious denunciation. Both Mann and Gellately have noted that German Jews were the frequent objects of private denunciations. Certainly, many accusations of 'Jewish' criminality and prosecutions of so-called racial defilement could only have been brought with the collaboration of large numbers of ordinary Germans, although paid informants and spies could also play a significant and dangerous role in the revelation of such 'crimes'.³¹⁰

Denunciations from the public were particularly important for the revelation of essentially private 'crime'. Listening to foreign radio, defeatism, Malice, were inevitably dependent on denunciations from the general public for their successful detection and prosecution.³¹¹ The Düsseldorf Gestapo files also highlight the extensive role of the Gestapo as a tool of vengeance in German society, particularly in the settling of neighbourly quarrels. Two hundred and fifty-three files included in our sample of Düsseldorf Gestapo files make explicit reference to an antagonism between the denouncer and the accused, sometimes as petty as the disputed ownership of a ladder. Other than friends, neighbours and colleagues, there were few other sources from which the information provided to the Gestapo might have stemmed. The motivation for such behaviour is unclear but we should not discount the significant role played by spite, malice and greed. There is little doubt that private denunciations helped to create the myth of Gestapo omnipotence. Denunciations from the civilian population brought the Gestapo into the private world of the individual and in doing so helped to sustain the idea of an all-seeing, all-hearing police force.

Denunciation also served to bring previously unknowns to the attention of the police. New cases of individuals without criminal records were often reported to the police by friends,

³⁰⁹ Rockenmaier, D., *Denunzianten*, p. 29.

³¹⁰ Diewal-Kerkmann, G., 'Denunzianten und Gestapo: Die freiwillige Helfer aus der Bevölkerung' in Mallmann, K., & Paul, G., (eds.) *Die Gestapo: Mythos und Realität*, pp. 288 - 290.

³¹¹ Wachsmann, N., *Hitler's Prisons*, p. 387.

colleagues and family members of the accused and there are one hundred and forty-two such cases in our survey. In certain cases the consequences of a denunciation were not necessarily known to the denouncer. The wife who naively reported her husband for listening to BBC German language broadcasts probably did not expect him to be sent to Sachsenhausen.³¹² As she told the interrogating officer, she knew what he did was illegal and she had asked him so many times to stop that she just did not know what to do any more. The number of petitions for mercy filed by the wife speak against any accusation of malice. Similarly, the factory foremen who reported their work-shy, absentee charges often did so out of exasperation. The character references they later submitted often spoke of the accused in glowing terms and were often in patent contradiction to the original accusation filed. Factory foremen, after all, had to meet certain production targets. Their own jobs and reputations were in question. However, these cases were the minority rather than the majority.

Reassessing Denunciation

Although in our sample of Düsseldorf Gestapo files more than four hundred investigations had been initiated by a possible denunciation, we must exercise considerable caution when assessing the importance of denunciations from the general public to the practice of the Gestapo. Upwards of half (three hundred and five - 30.5% cases) of the Gestapo investigations included in this survey and triggered by a denunciation concerned nothing more serious than the exclamation of a derogatory or defeatist remark. A further one hundred and eighteen cases concerned accusations of the pursuance of a relationship with a foreign worker or a suspected contravention of the Radio Crimes statute. In only twenty-six (2.6%) cases, did denunciation reveal actual evidence of conspiratorial political association. The detailed investigation of the Düsseldorf Gestapo records serves only to substantiate the findings of Ludwig Eiber's investigation into the workings of the Hamburg Gestapo and of the importance of routine police work to the revelation of the most incidents of dissent;

³¹² HStA D: Gestapo 64866. The case of Konrad Niesen, born in Gerresheim in 1890.

that denunciation was only peripheral importance to the detection of organised dissent.³¹³

The records of the Düsseldorf Gestapo make clear that where genuine cause for suspicion existed, the Gestapo did not need to rely on denunciations from the wider community and instead utilised its own system of spies, paid informants (V-men) and surveillance techniques in order to gather information on persons suspected of political unreliability. Those Germans who were thought to pose a danger to the 'National-community' were routinely surveyed by the Gestapo. Two hundred and thirty-four (23.4%) individuals prosecuted by the Düsseldorf Gestapo included in our survey had been the subject of some form of police surveillance. As we noted in chapter one, the police and party security services regularly shared files and also had ready access to the files compiled by the police services of the Weimar Republic. The Gestapo could call on a considerable depth of information. The file sample also indicates that those Germans with previous convictions were likely not only to come to the attention of the Gestapo but were subject to routine police scrutiny. The case of Arthur Hoffmann (recounted on pp. 139 - 140) among others is indicative of the use of Weimar police files in the construction of police prosecution cases. Records on the actions and whereabouts of suspect leading members of the clergy, intellectuals and members of the Weimar political parties are all included in the files and were the results of the Gestapo's own information gathering and not denunciations. The importance of professional police surveillance work and the Gestapo's own network of spies to the discovery of serious 'crime' has been further substantiated through Christine Förster's detailed work on pro-monarchist groups in Bavaria. There, a single spy and former KPD member, Michael Fischer, enabled the Munich Gestapo to uncover and break many potential threats from not only the political left but also the monarchist circle founded by the Munich lawyer, Adolf Harnier, and other pro-monarchist and separatist groups in Innsbruck from 1935 until as late as 1941, whereafter the Gestapo worried for Fischer's identity and transferred him elsewhere in Bavaria.³¹⁴

³¹³ Eiber, L., 'Zur Effektivität der Gestapo und der Funktion der Gestapo im faschistischen Terrorsystem', *passim*.

³¹⁴ Förster, C., *Der Harnier Kreis: Widerstand gegen den Nationalsozialismus in Bayern*, (Munich/ Vienna 1996), pp. 179 - 427.

Private denunciation did not facilitate the strict control of German society that the Gestapo enforced, rather it allowed the Gestapo to intervene in various spheres and contributed to the propagation of the myth of omnipresent terror and police action.³¹⁵ The importance of private denunciation was relative and dependent on the category of crime. The evidence of this sample would appear to contradict the line of argument pursued by Gellately and Johnson. Whilst it is certain that an unfortunate number of Germans did denounce neighbours, family and friends, motivated by a heady mixture of ideological conviction, spite and malice, greed and that great personal damage was inflicted as a result of denunciations, it is perhaps still premature to condemn Germany as a self policing, denunciatory society with any degree of certainty. Indeed, until we are able to establish exactly what constitutes a denunciatory society, until we have examined the full ramifications of denunciation in a specific area through the complete examination of all police records pertaining to that particular area and established the actual level of control that denunciation facilitated, we should be hesitant with the conclusions that we can draw. Denunciation played a substantial role in the creation of a myth of Gestapo omnipotence. It enabled the Gestapo to intervene in an otherwise private arena and for those directly affected, its consequences could be devastating. However, very few of the 'crimes' revealed through denunciations from the general public were serious, mostly they concerned allegations prosecuted under the Malice statute. In contrast, we must recognise that the most large serious instances of organised dissent were uncovered by means of police investigation and surveillance.

The Gestapo: Practice and Perception

The perception of the Gestapo as an almost 'perfect' police-force has by default cultivated the image of the Gestapo as a thoroughly modern police-force; an image that both Heydrich and Himmler were keen to encourage. We should not, however, place too much

³¹⁵ Mallmann, K., & Gerhard Paul, G., *Herrschaft und Alltag: Ein Industrieviertel im Dritten Reich. Widerstand und Verweigerung im Saarland 1935-1945. Band I.*, p. 425.

importance on this perceived modernity to the revelation of 'crime'. In this respect the files of the Düsseldorf Gestapo are instructive and provide a tantalising glimpse of the mixture of old and new practices which characterised Gestapo procedure. The files give the impression of a modern and professional police force capable of using the most advanced techniques in detection and surveillance in tracking down perceived enemies. They contain volumes of telex communications requesting information and providing information for Gestapo offices throughout the Reich. Phone tapping and the swift and, to the recipient, imperceptible interception of letters were also available to investigating officers, although their use was limited. These technologies enabled the Düsseldorf Gestapo to be part of an organisation capable of carrying out synchronised mass arrests across Germany, as was the case in the wake of the attempted assassination of Hitler on 20th July 1944 in which upward of five thousand suspects were arrested. Yet, as Berschel has noted, the Gestapo routinely suffered from a shortage of motorised transport and was forced to commandeer transport from the ordinary police.³¹⁶ Similarly, it was expected that suspects would present themselves at Gestapo offices for questioning as the Gestapo lacked the means to collect and transport those it sought to interrogate.³¹⁷ As we shall see below, the professionalism of individual officers was also open to question. Information was mostly stored on cumbersome card indexes, despite the purchase and limited use of modern filing technologies from IBM. Torture was frequently chosen before actual detective work as a means of accumulating evidence.³¹⁸ Modern police practices were more the exception rather than the rule, but this did not necessarily compromise the effectivity of the Gestapo.

The perception of police modernity inevitably fed into the myth of Gestapo omnipotence. Although the Gestapo's formidable reputation was wholly deserved, it found a counterpoint in a carefully constructed propaganda image. A determined effort was made by the Nazi authorities, through the press office of Goebbels' Ministry of Propaganda, to exaggerate Gestapo success, particularly in the wake of judicial convictions, in the hope that potential

³¹⁶ Berschel, H., *Bürokratie und Terror*, p. 155.

³¹⁷ Berschel, H., *Bürokratie und Terror*, p. 156.

³¹⁸ Mallmann, K., & Paul, G., *Herrschaft und Alltag: Ein Industrieviertel im Dritten Reich. Widerstand und Verweigerung im Saarland 1935-1945. Band I.*, p. 234.

dissenters would be deterred from future action.³¹⁹ Connotations of police modernity played a substantial role in these press reports which in certain cases detailed the use of new technologies.³²⁰ The image of the police cultivated by the Ministry of Propaganda was not without foundation in the popular imagination. It built on existing preconceptions. Regardless of the criticisms levelled at the Weimar police by various detractors, it had enjoyed a fearsome reputation for solving crimes with efficiency.³²¹ The importance of the perception of Gestapo omnipotence engendered through Nazi propaganda should not be underestimated. Ordinary Germans were unlikely to have had dealings with the Gestapo. Yet in many circles, particularly areas once sympathetic to the political left, fear of the Gestapo was widespread and is clearly recorded in many autobiographical accounts written by former Communists and Social-democrats.³²² The Communist concentration camp survivor Edwin Och's recalled his deep-seated fear of the Gestapo as a young man growing up in Stuttgart. He remembered the Gestapo as the driving force and executor of Nazi repression.³²³

An Ideological Rationale

The perception of Gestapo terror was not driven by programmatic police action alone; rather it was also fostered by the cold realities of daily life, misconceptions and mistakes in police practice and ideological prerogatives in particular. The aims and aspirations of the Nazi leadership were shared by the Gestapo as an institution, if not by every individual officer.³²⁴ This was a police force that believed in the validity of *Lebensraum*, German racial purity and the persecution of perceived enemies in order to preserve and promote the

³¹⁹ Lauf, E., *Der Volksgeschichtshof und seine Beobachter. Bedingungen und Funktionen der Gerichtsberichterstattung im Nationalsozialismus*, (Opladen, 1994), pp. 282 - 284.

³²⁰ Gellately, *Backing Hitler*, p. 44.

³²¹ Browder, G., *Hitler's Enforcers*, p. 17.

³²² Paul, G., 'Die Gestapo als Thema der Forschung: Auf dem wege zu einer Sozialgeschichte des Terrors: eine Zwischenbilanz' in Mallmann, K., & Paul, G., (eds.) *Die Gestapo: Mythos und Realität*, p. 3.

³²³ Och, E., *Ein Arbeiter im Widerstand*, (Stuttgart, 1984), pp. 10 - 22.

³²⁴ Wildt, M., 'Radikalisierung und Selbstradikalisierung 1939. Die Geburt des Reichssicherheitshauptamtes aus dem Geist des völkischen Massenmords' in Mallmann, K., & Paul, G., (eds.) *Die Gestapo im Zweiten Weltkrieg*, p. 11.

'National-community'. As an ideologised police force, the Gestapo unquestioningly accepted the Hitlerian definition of enmity made clear in both Nazi propaganda and the statements and memoranda issued by senior police officers and civil servants.³²⁵

Synonymous Judaism and Bolshevism were recognised as the greatest threat to the survival of the German people and thus the state with which the Gestapo was charged with defending.³²⁶ The ideological indoctrination of Gestapo officers and the ideologically conceived mandate granted to the Gestapo affected its practice in a variety of ways which did little to negate the effectiveness of the Gestapo as an institution.

Charged with the merciless persecution of ideologically determined enemies of the people and state, the Gestapo had concentrated many of its resources combating the political left in the former strongholds of the KPD and the SPD.³²⁷ Such ideological determinism ensured that the Gestapo had frequently found what it was looking for. Furthermore, the traditional bigotry of a police force long since purged of moderating influences and the ideological prerogatives set down by the regime determined that new threats were frequently located within the industrial working-class milieu and other groups bound to it through Nazi ideological determinism, irrespective of the reality of the matter.³²⁸ Through the focusing of resources on the surveillance and suppression of working-class populations the Gestapo had routinely uncovered cells of what it held to be Communist or leftist resistance.³²⁹ After 1941, the revelation of illegal opposition groups in populations regarded as politically untrustworthy gave justification to the increasingly arbitrary and violent practice of the police.

³²⁵ Werner Best, the chief legal officer of the Gestapo wrote and made frequent statements to both the press and legal bodies and journals, defining and refining the role and aim of the Gestapo. His writing found ready and zealous fulfilment in the actions of Gestapo officers throughout the Reich. He described the purpose of the Gestapo thus -accepting the ideological prerogatives of a regime in which he wholeheartedly believed: "Schutz und Kampfinstrument der Führung zur Erforschung und Überwachung aller für die Staatssicherheit und die Einheit und Gesundheit des Volkskörpers gefährlichen Bestrebungen und Handlungen und zur Bekämpfung und Unschädlichmachung aller Kräfte, die Träger dieser Bestrebungen und Handlungen sind" cited in Berschel, H., *Bürokratie und Terror*, p. 46.

³²⁶ Evans, R., *The Coming of the Third Reich*, p. 431.

³²⁷ Browder, G., *Hitler's Enforcers*, p. 11.

³²⁸ Mallmann, K., 'Brüderlein & Co.: Die Gestapo und der kommunistische Widerstand in der Kriegsendphase', in Mallmann, K., & Paul, G., (eds.), *Die Gestapo im Zweiten Weltkrieg*, pp. 272 - 273.

³²⁹ Mallmann, K., & Paul, G., *Milieus und widerstand: Eine Verhaltensgeschichte der Gesellschaft im Nationalsozialismus*, p. 372, & pp. 408 - 412.

Ideology also caused the Gestapo to misunderstand many of those it accused of resistance activities and treason. The Gestapo was convinced of conspiratorial Communist machination.³³⁰ However, searching for structures, motives and plots rarely helped Gestapo officers understand the real nature of many of the informal groups of friends and one time Communists who regularly met to listen either to the BBC or Radio Moscow during the war, but did determine that such 'offences' were combated with an iron fist propounding a climate of indiscriminate fear.³³¹ The Gestapo expended considerable energy in trying to force those arrested for ostensible membership of left-wing groups to admit to belonging to a wider Communist network, blindly determined that something greater hid behind a seemingly shambolic facade. Rarely was this the case.³³² The files of the Düsseldorf Gestapo substantiate the claims made by Detlev Peukert: that during the war, those Communists engaged in the perpetration of the most serious acts of dissent had largely cut themselves off from their communities and, for reasons of survival, rarely entertained contacts with informal and hardly covert radio listening groups.³³³ The desire of the Nazi authorities to smash all opposition led to a perhaps paranoid reaction to the actions of such informal groups. In our survey, twenty cases of listening to foreign radio broadcasts were passed by the Düsseldorf Gestapo to the People's Court in Berlin.

This misunderstanding was most acute when the Gestapo was confronted with members of the *bündische Jugend*.³³⁴ Once again, the files, particular the interviews of suspects, reveal a misguided ideological determination to discover a leading and shady character pulling strings somewhere in the background or a political organisation and driving force, which simply was not true of most groups which were little more than informal associations of young people trying to enjoy themselves in wartime, free from the military strictures of the Hitler Youth and

³³⁰ Peukert, D., *Die KPD im Widerstand*, pp. 372 - 373.

³³¹ Kenkmann, A., 'Störfaktoren der "Heimatfront": Jugendliche Nonkonformität und die Gestapo' in Mallmann, K., & Paul, G., (eds.), *Die Gestapo im Zweiten Weltkrieg*, p. 182.

³³² Mallmann, K., Brüderlein & Co. Die Gestapo und der kommunistische Widerstand in der Kriegsendphase, in Mallmann, K., & Paul, G., (eds.), *Die Gestapo im Zweiten Weltkrieg*, p. 272.

³³³ Peukert, D., *Die KPD im Widerstand*, pp. 401 - 414.

³³⁴ Kenkmann, A., 'Störfaktoren der "Heimatfront"', pp. 179 - 200.

a proscriptive society.³³⁵ This misconception was further confused by the superficial political colouring (particularly the singing of Communist songs) of groups like the Edelweiß Pirates.³³⁶ The intellectual framework of most Gestapo officers did not allow for the possibility that 'enemy' activities could be committed by disorganised and loose associations of people. Rather, it could only stem from organised, conspiratorial groups. Consequently, the Gestapo found it difficult to deal with a group that was adolescently antiauthoritarian. It either could not or would not understand the delineations made by the *bündisch* groups: that not to want to be a member of the Hitler Youth did not necessarily make one whole-heartedly anti-Nazi and very rarely anti-German.³³⁷ Driven by ideological prerogatives and the factors described above, the Gestapo mistook working-class roots, a sense of communalism and an adolescent loathing of authority for organised Communist dissent and persecuted the groups accordingly.³³⁸

The ideological and racial priorities of the regime also brought large numbers of people who would otherwise have had little contact with the regime into direct conflict with the police, particularly in the Catholic south of Germany and the rural hinterland of the Ruhr, extending police terror to population groups who previously had little contact with the authorities.³³⁹ The panoply of legislation governing relationships between Germans and other 'races' which had found its first expression in the infamous Nuremberg laws of September 1935, and was then expanded on, particularly after the start of the war when the German authorities imported to Germany in the most brutal fashion conquered POWs and civilians to fill the labour gap caused by the call up of millions of German men. This legislation branded as criminal many thousands of Germans who had had no previous contact with the Gestapo.³⁴⁰ As with so many activities conducted in the private sphere, victims were mostly brought to

³³⁵ Peukert, D., *Die KPD im Widerstand*, p. 390.

³³⁶ Kenkmann, A., 'Störfaktoren der "Heimatfront"', pp. 180 - 181.

³³⁷ Kenkmann, A., 'Navajos, Kittelbach und Edelweißpiraten: Jugendliche Dissidenten im "Dritten Reich"' in Breyvogel, W., (ed.) *Piraten, Swings und Junge Garde*, pp. 155- 157.

³³⁸ Kenkmann, A., 'Navajos, Kittelbach und Edelweißpiraten', p. 156.

³³⁹ Breuer, T., *Verordneter Wandel? Der Widerspruch zwischen Nationalsozialistischem Herrschaftssystem und traditioneller Lebenswelt im Erzbischof Bamberg*, (Mainz, 1992), pp. 300 - 310.

³⁴⁰ Gellately, R., *Backing Hitler*, pp. 151 - 152.

the attention of the Gestapo through the actions of neighbours and associates.³⁴¹

The cases of Klara Kellner³⁴² and Karl Klesch,³⁴³ although different, are demonstrative of Gestapo practice and neatly illustrate the regime's racial and political priorities. In each case we see a variety of prerogatives at work. Kellner, a house wife from Düsseldorf, had started a flagrant relationship with Albert, an eighteen year old Belgian brought to Germany to work in a local armaments factory, after her Nazi voting husband had been called up for active service. Her affair was carried out very much in the public domain, so much so that witnesses 'complained' of having seen them both naked together. According to both Kellner's own, and her neighbour's testimony, Albert had moved into her home soon after the affair had begun. Kellner received no more than an informal warning from the Gestapo, yet it was enough to cause her to desist with her affair.

In comparison, Klesch, a suspected former Socialist and German of Hungarian descent whose conversion to Nazism was late and superficial, was sent to a camp because of his alleged sexual relationship with a female Polish munitions worker substantiated only by the hearsay of a neighbour. Farmers in Westphalia, a traditionally pro-Nazi group, were also brought into the orbit of the Gestapo as a consequence of their assignments with foreign workers imported to the Reich. Farmers had frequent contact with foreign workers and often shared accommodation with them.³⁴⁴ Thus an apparently safe group came into the Gestapo's orbit. The nineteen such cases recorded in the files of the Düsseldorf Gestapo reveal that many Germans loyal to the regime had assumed they were secure enough to abuse positions of authority. Their relationships with foreign workers of both sexes were often entirely exploitative. The effect of these investigations was to reaffirm the impression of an all-powerful Gestapo with the ability to strike anywhere and at anytime. The racial policies of the regime and its servants, had almost by default, brought a further social group

³⁴¹ Gellately, R., *Backing Hitler*, p. 173.

³⁴² HStA D: Gestapo 37286

³⁴³ HStA D: Gestapo 58725

³⁴⁴ Mallmann, K., & Paul, G., *Herrschaft und Alltag: Ein Industrieviertel im Dritten Reich. Widerstand und Verweigerung im Saarland 1935-1945. Band 1.*, pp. 401 - 402.

into the Gestapo's purview.

Circumstance and Individual Prerogative

The gradual collapse of traditional structures of government and hierarchy during the war, enabled police officers to wield great personal power.³⁴⁵ Gestapo officers decided the fates of suspects without recourse to a higher authority and the attitudes and actions of individual officers could shape investigations and determine their outcome. Not all Gestapo officers were fanatical Nazis and their perspectives on certain issues and points of interpretation could vary from their more ideologically-minded, radical colleagues. Holger Berschel has documented the differing attitudes of officers to the implementation of anti-Jewish policy.³⁴⁶ Certain officers, indifferent to the fate of German Jews, implemented policy diligently. Others demonstrated a tenacious zeal above and beyond the call of duty, engineering incidents in order to provide good reason for those German Jews in privileged marriages and those born to mixed marriages (*Mischlinge*) to be deported to the East.³⁴⁷ Others found the anti-Jewish discrimination distasteful and refused to implement policy, warning future victims of their fate and providing either the means or the time necessary for an escape.³⁴⁸

Perceptions of criminality also varied greatly among officers. Similar 'offences' committed at the same time could have widely different outcomes. Much depended on the inclinations and attitudes of the investigating officers. In only twenty-one (2.1%) cases was a decision made to the ultimate benefit of the accused. The file sample reveals that listening to foreign radio broadcasts could result in either little more than a nominal police warning and the closure of the case, or the eventual imposition of the death penalty. Similarly, Grumbling could be interpreted either as proof of implacable opposition to the state and the system or an understandable, if regrettable, outburst in the wake of an Allied bombing raid. The file

³⁴⁵ Johnson, E., *The Nazi Terror*, p. 483.

³⁴⁶ Berschel, H., 'Polizeiroutiniers und Judenverfolgung. Die Bearbeitung von Judenangelegenheiten bei der Stapo-Leitstelle Düsseldorf' in Mallmann, K., & Paul, G., (eds.), *Die Gestapo im Zweiten Weltkrieg*, pp. 155 - 178.

³⁴⁷ Johnson, E., *The Nazi Terror*, pp. 388 - 424.

³⁴⁸ Berschel, H., *Bürokratie und Terror*, pp. 98 - 99.

sample also reveal numerous examples of Gestapo officers' use of personal judgement in the treatment of evidence. The approach of different Gestapo officers to similar information was at times far from uniform. The deliberations of a small number of officers appeared to be influenced by the stricter legal considerations of an earlier age. A small number of cases were not pursued because they possessed no basis in fact or were founded on unreliable hearsay. However, such legalistic considerations appear only to have influenced a very small minority of investigation cases.

A number of cases (as many as thirty-nine -3.9%- in our sample) were initially dismissed by the investigating officer. This is not to say that the 'criminal' in question was not to be observed (as did happen) or that police intervention did not occur at a later stage but rather that the investigating officer was allowed some freedom to decide the validity of the case. The reasons for the failure of officers to pursue cases fully were varied but one factor suggests itself perhaps as more causal than others. The Gestapo did not have the time or manpower to investigate each and every case nor to pursue each and every case to its logical conclusion. Investigations and prosecutions were lengthy procedures often lasting more than a year.³⁴⁹ Whether, as Eric Johnson has suggested, cases were dropped in order to maintain a veneer of 'legality' and not spread disquiet in the civilian population is unclear.³⁵⁰ Without an order to that effect it must remain a matter of speculation.

Those cases not investigated fully by the Gestapo often involved members of the NSDAP (fifteen cases) or concerned the young (thirteen cases) who were the recipients of police warnings (see examples pp. 209 - 213). Occasionally, the abandonment of a case in order to concentrate on other priorities could have catastrophic results as the case of Hans Kurt Schild demonstrates.³⁵¹ Schild had been denounced by a known telltale for allegedly working for not just the KPD but also the Russian secret service. Indeed, the Gestapo harboured their own suspicions and had compiled a weighty file on him. Try as they might to indict Schild, the investigating officers were unable to find any evidence of Communist

³⁴⁹ Richter, I., *Hochverratsprozesse als Herrschaftspraxis im Nationalsozialismus*, pp. 61 - 63.

³⁵⁰ Johnson, E., *The Nazi Terror*, p. 485

³⁵¹ HStA D: Gestapo 73048.

support or agitation and could do little more than point to his association with several former Communists, which, in the Ruhr, was an association to which many workers could lay claim. In late 1942, the officers of the Düsseldorf Gestapo must have been dismayed to have discovered through the offices of military intelligence, that Schild had managed to find his way across the Russian lines and had provided Soviet military intelligence with detailed plans of the armaments industry in the Ruhr area.

Although the officers of the Düsseldorf Gestapo were forced to drop cases because of the volume of work with which they were confronted (much of it created by the Gestapo's own ideological prerogatives), officers also had a vested interest in generating as much work as they could; identifying threats where they did not necessarily exist. By exaggerating the dangers posed by certain groups on the home front, officers secured their own positions, reducing the chance of transfer to one of the many war fronts.³⁵² The identification of potential threats also helped the Gestapo consolidate and defend its own areas of competence within the chaotic and competitive system of Nazi governance. It was the ordinances of the Gestapo that had transformed the *bündische Jugend* from a social into a political problem.³⁵³ Similarly, it was the Gestapo that had first identified these youth groups as a political threat rather than a social nuisance.³⁵⁴ It was also the Gestapo that decided that the organisation of group weekend excursions by young people was a peculiarly *bündisch* characteristic. The officers of the Düsseldorf Gestapo were vulnerable to change. Relative to its previous importance, the Düsseldorf Gestapo was of increasingly peripheral significance to the security policy of the Reich and the occupied territories. Düsseldorf was no longer a centre for espionage. Its use as a base for Rhine sailors in the pay of the French Secret Services, had ceased with the defeat of France and the occupation of the Low Countries in June 1940.

³⁵² Berschel, H., *Bürokratie und Terror*, p. 232.

³⁵³ Kenkmann, A., 'Störfaktor an der "Heimatfront"', p. 181.

³⁵⁴ Kenkmann, A., 'Störfaktor an der "Heimatfront"', pp. 180 - 182.

The Efficacy of Terror

The Gestapo was successful by virtue of its own efficacy. Despite its limited resources, the Gestapo employed terror to extraordinary effect and maintained control through the selective targeting of terror at groups recognised as posing the greatest threat to the Reich. Its practice was differentiated and attuned to the different social groups at which it was directed. However, the practice of selectively targeting terror should not lead us to assume that the extent of Nazi terror was by any means limited. As we have seen, Germans from all backgrounds were the victims of Gestapo persecution. The effectiveness of the Gestapo was propounded by the unquestioned violence of Gestapo practice, the clear intention of which was to deter Germans from perpetrating acts of dissent. Fear at police intervention was entirely justified. By means of both propaganda and the actual exercise of terror a myth of Gestapo omnipotence was created, which was effective, not only in combating dissent in all its many manifestations, but in creating a climate of fear capable of dissuading Germans from committing acts of dissent.

Many ordinary Germans actively helped to sustain both terror and its cultivated myth through denunciation. Private denunciations from the general public were of vital importance to the revelation of dissent in the private sphere. However an emphasis on the reactive character of the Gestapo should come with qualification. In cases of serious crime, the Gestapo was far from reactive and routinely employed sophisticated and elaborate systems of detection and surveillance with great success. We should not expect the threat of Gestapo action alone to have put an automatic stop to the perpetration of known acts of dissent which was, in the event, limited to a proportionately small number of people. However, if we ask why acts of dissent were not committed in greater number, the answer almost certainly lies in the effectivity of Gestapo terror. The files and experience of the Düsseldorf Gestapo make clear that the constant threat of possible police retribution - if not its actuality - was imparted on the consciences of a large number of Germans. Most significantly, the majority of those released from Gestapo custody appeared to have learnt

well from their experience and were willing to become 'productive' members of the 'National-community', if often through sullen acquiescence rather than overt approval or enthusiasm.

Chapter Three: Jurists, the Courts and Nazi Persecution

The People's Court and the Special Courts

The courts of Nazi Germany were not the first instance of choice of terror and discrimination; that role fell to the police.³⁵⁵ As we noted in chapter one, the German courts and legal system were part of a larger and complex network of terror which combined both formal and informal elements, new and older agencies. Within this overlapping and largely unplanned system, the courts fulfilled several crucial roles and were central to the exercise of terror and state sponsored persecution. Nazi justice was punitive and served with deterrence in mind. During the final years of the Third Reich, Nazi courts sent thousands of ordinary Germans to their deaths. Despite the deep rooted distrust felt by many leading Nazis -particularly Hitler- towards the legal system, manifest in frequent and public attacks at judicial action by prominent figures within the regime, the courts played a prominent role in the Nazi terror network.³⁵⁶

This chapter will chart the changing working practices of the German courts, particularly the People's Court and the Special Courts and will elucidate their role within the wider Nazi terror nexus using examples from the survey. Judicial practice and persecution between 1941 and 1945, the focus of this chapter, were very different from their pre-war manifestations which had paid some, if qualified, heed to pre-existing legal norms and will form. Nazi legal terror reached its high point in the final years of the war. However, the changes to legal procedure introduced during the first years of Nazi rule set down a clear framework for the discriminatory and highly politicised court practice of later years. This chapter will chart this process of radicalisation, which was given shape and direction through statements of the regime's ideological and political intent, through to its bloody conclusion.³⁵⁷

³⁵⁵ Johnson, E., *The Nazi Terror*, p. 485.

³⁵⁶ Wachsmann, N., *Hitler's Prisons*, pp. 113-118.

³⁵⁷ Lauf, E., (ed.) *Forschungsprojekt 'Volksgesichtshof': Der Volksgesichtshof: rechtshistorische Einordnung und rechtliche Bewertung: Berichte über die erste Projektphase Oktober 1989 bis September 1991*, (Münster, 1991). p. 32.

Nazi Courts in History

In contrast to the attention which has been devoted to other facets of Nazi rule, writing on the German legal system and courts has been comparatively rare. Broader histories of the Third Reich have tended to sideline the importance of the courts, focusing instead on the police when dealing with discrimination and persecution.³⁵⁸ However, recent studies on the legal system have focused on the institutional and sentencing histories of regional and lower courts and have broadened our understanding of the operation of Nazi justice considerably,³⁵⁹ though they have not looked at the courts in their broader context and have not located them within a wider network of terroristic institutions. Partly, this situation has been determined by circumstance. Complete or adequate records for most courts do not exist, rendering comprehensive comparison impossible. Large numbers of court records were destroyed on the orders of Reich Justice Minister Thierack in the final months of the war. Many of the records not destroyed by Nazi officials fell victim to allied bombing raids. Famously, the People's Court in Berlin - the first instance of Nazi Justice - was hit directly by Allied bombs on 3rd February 1945.

Although, regional studies from cities such as Hamm, Duisburg and Essen have provided useful and tantalising information for this study, this detail has been of marginal importance to the central thesis. Peter Hüttenberger's earlier and thoughtful analysis of the trial of Malice crimes before the Munich Special Court in the pre-war period had provided a ready basis on which to build, emphasising the central importance of political persecution to judicial

³⁵⁸ Wachsmann, N., *Hitler's Prisons*, pp. 8 - 9.

³⁵⁹ Schuhmacher, B., 'Die Durchsetzung politischer und politisierter Strafjustiz im OLG Bezirk Hamm 1933-1945: Grundlagen, Grenzen und Fragestellungen eines zeitgeschichtlichen Forschungsvorhaben' in Angermund, R., (ed.), *Justiz und Nationalsozialismus: Band I*, (Düsseldorf, 1993), pp. 1 - 46; Knobelsdorf, A., 'Das Bielefelder Landgericht 1933-1945', in Angermund, R., (ed.), *Justiz und Nationalsozialismus: Band I*, pp. 47 - 102; Douma, E., 'Der "Einsatz" der Rechtsanwälte in der Justiz während des Zweiten Weltkrieges', in Angermund, R., (ed.), *Justiz und Nationalsozialismus: Band I*, pp. 103 - 130; Simon, J., 'Die Erbgesundheitsgerichtsbarkeit im OLG Bezirk Hamm: Rechtsprechung zwischen juristischen Vorhaben und ideologischen Anforderungen' in Angermund, R., (ed.), *Justiz und Nationalsozialismus: Band I*, pp. 131 - 168; and, Niermann, K., 'Strafjustiz und Nationalsozialismus im OLG-Bezirk Hamm, 1933-1945' in Oberstadtdirektor der Stadt Hamm (ed.) *Ortstermin Hamm: Zur Justiz im Dritten Reich*, (Hamm, 1991), pp. 17 - 45.

procedure and the regional colouring of many aspects of dissent.³⁶⁰ In his wide ranging, if slightly cursory, examination of justice in the Rhineland, Ralph Angermund, has highlighted not only the centrality of the Special Courts to the prosecution of dissent at a regional level, but has helped establish the Special Courts as an important facet of a wider network of terror.³⁶¹ Otherwise, historical writing has focused on the People's Court, an inevitability given the primacy of the People's Court within the Nazi legal system and the grotesque and spectacular which characterised its proceeding.

From the first, the historiography of the German legal terror has been dominated by the judicial conclusions of the Nuremberg Tribunal and the confusing necessities of the post-war settlement.³⁶² Indeed, in common with the historiography of many aspects of the Nazi state, writing on the subject has divided along the social, political and national fractures which have shaped the post-war German nation(s).³⁶³ The Nuremberg Tribunal was damning in its condemnation of the Berlin People's Court and to a lesser extent of the Special Courts and legal system *per se*.³⁶⁴ However, the shortage of skilled legal personnel in the immediate post-war period forced the Allied supervisory authorities to employ many once loyal Nazi jurists to administer justice in, initially, the Western Zones and then the newly founded German Federal Republic. Early writing reflected this development. Little was written in the West about the Nazi legal system, bar the People's Court which to many extents has been regarded as beyond exculpation - famously branded a 'blood tribunal' by the East German Historian, Günther Wieland.³⁶⁵ Jurists were depicted as unwilling servants of Nazism, keen to preserve as many vestiges of justice as was possible in the face of a tide

³⁶⁰ Hüttenberger, P., 'Heimtücke vor dem Sondergericht München 1933-1939' in Broszat, M., (ed.) *Bayern in der NS Zeit. Band iv*, pp. 436 - 524.

³⁶¹ Angermund, R., 'Justiz als Instrument politischer Verfolgung: Rechtsprechung im Rheinland und Westfalen 1933 1945.' in Faust, A., (ed.) *Verfolgung und Widerstand im Rheinland und in Westfalen 1933-1945*, (Cologne, 1992), pp. 56 - 58.

³⁶² Angermund, R., 'Justiz als Instrument politischer Verfolgung', p. 51.

³⁶³ Wachsmann, N., *Hitler's Prisons*, p. 8.

³⁶⁴ Marxen, K., 'Die Rechtsprechung des Volksgerichtshofs' in Rechtswissenschaftliche Fakultät der Christian-Albrechts-Universität zu Kiel (eds.), *Recht und Rechtslehre im Dritten Reich*, (Kiel, 1993), p. 15.

³⁶⁵ Wieland, G., *Das war der Volksgerichtshof: Ermittlungen, Fakten, Dokumente*, (Berlin [East], 1989), p. 7.

of Nazification and disagreements between the Nazi leadership and legal system were exaggerated as proof of judicial well-doing.³⁶⁶ This reluctance to adequately address the legal past was seized upon by writers and politicians in the former East Germany as proof of the fascist foundation of the West German state.³⁶⁷

As West German society grew increasingly willing to confront the Nazi past, the quality and scope of writing on the German legal system improved, largely inspired by the trial of former Nazi jurists throughout the course of the 1960s and the need to present clear and compelling evidence for the prosecution.³⁶⁸ The publication of *German Justice and National Socialism (Die Deutsche Justiz und der Nationalsozialismus)*, during the 1970s marked a sea change in the historiography of the subject.³⁶⁹ This multi-volume work, sponsored by the West German Ministry for Justice, was the first comprehensive examination of the relationship between the German legal system and the Nazi state. If criticism is to be levelled at this careful and thorough institutional history, it should be threefold: 1) The Nazi justice system is not located within the wider terror nexus. By default, it appears of lesser import in comparison to other Nazi institutions. 2) The mechanism and purpose of trial and the retention of the justice system are not examined in the face of growing extra-legal terror. Consequently, an understanding of the willingness of jurists to continue to *serve* justice is unintentionally proffered. 3) Opprobrium is only heaped on the few leading judicial personalities: Roland Freisler, Otto Thierack and Franz Schlegelberger.³⁷⁰

Of central importance to the study of Nazi courts is Lothar Gruchmann's *Justice in the Third Reich (Justiz im Dritten Reich)*.³⁷¹ Published in 1990, Gruchmann's account of Gürtner's tenure as Minister of Justice has done much to elucidate understandings of Nazi justice.

³⁶⁶ Marxen, K., 'Die Rechtsprechung des Volksgerichtshofs', p. 13.

³⁶⁷ Wachsmann, N., *Hitler's Prisons*, p. 346.

³⁶⁸ Angermund, R., 'Justiz als Instrument politischer Verfolgung', p. 52.

³⁶⁹ Wagner, W., et al, *Die deutsche Justiz und der Nationalsozialismus. Band I-IV*, (Stuttgart, 1973-76), of particular pertinence to this chapter has been, Wagner, W., *Der Volksgerichtshof im nationalsozialistischen Staat. Band III*, (Stuttgart, 1974), *passim*.

³⁷⁰ Wagner, W., *Der Volksgerichtshof im nationalsozialistischen Staat. Band III*, pp. 110 - 120.

³⁷¹ Gruchmann, L., *Justiz im Dritten Reich*, *passim*.

Gruchmann identified the considerable co-operation between the different instances of Nazi law and order, highlighting the willingness of the justice authorities to serve the regime in the persecution of community aliens.³⁷² Importantly, Gruchmann identified the reforms introduced by Gürtner between 1933 and 1941, as the foundation for the escalation of legal terror during the final years of the war.³⁷³ Although Gruchmann does not specifically deal with the period considered here, he provides a clear theoretical foundation on which to build. Ingo Müller's widely read *Hitler's Justice* has also been of considerable import.³⁷⁴ Müller's work is a scathing indictment of the Nazi legal system. He has focused on the culpability of German jurists and the institutions for which they worked, emphasising the possible criminality, and certain extra-legality, of many legal decisions and procedures.³⁷⁵ Importantly, Müller has placed considerable emphasis on the terroristic quality of judicial procedure and decision making, pointing to the centrality of terror to Nazi justice rather than any traditional understanding of justice.³⁷⁶

Inevitably, both Müller's and Gruchmann's work have acted as catalysts to the further study of the German courts under National Socialism. New studies have emerged, as have new arguments, some of varying credibility. Scholarly attention has also focused, perhaps, understandably given the early focus on legalism, on the legality of court decisions. Scholars like Edmund Lauf and, less convincingly, Hans-Joachim Koch, have placed emphasis on 'continuities' and 'normalities' which although nominally sustainable, particularly as an abstract, are difficult to sustain and, ultimately, problematic when judicial procedure and conclusions are examined holistically and in detail.³⁷⁷ The recent publication of Nikolaus Wachsmann's

³⁷² Gruchmann, L., *Justiz im Dritten Reich*, pp. 62 - 70.

³⁷³ Gruchmann, L., *Justiz im Dritten Reich*, pp. 546 - 682.

³⁷⁴ Müller, I., *Hitler's Justice*, *passim*.

³⁷⁵ Müller, I., *Hitler's Justice*, pp. 85 - 183.

³⁷⁶ Müller, I., *Hitler's Justice*, *passim*.

³⁷⁷ Lauf, E., *Der Volksgerichtshof und seine Beobachter, Bedingungen und Funktionen der Gerichtsberichterstattung im Nationalsozialismus*, (Opladen, 1994), p. 11., points to the freedoms allowed to judges and the importance of procedure; Marxen, K., 'Die Rechtsprechung des Volksgerichtshofs', p.13., emphasises the importance of continuities in the pre-war period, partly ignoring the pressures for reform and the considerable changes to judicial practice and theory which had taken place since the Nazi take-over. Koch, H., *In the Name of the Volk: Political justice in Hitler's Germany*, (London, 1989), *passim*. Koch's account of political justice under Nazism tends towards implicit apologia, exonerating judges who made 'correct' decisions and condemning the actions dissenters as treacherous.

Hitler's Prisons will hopefully prevent the emergence of a largely unnecessary academic debate on the alleged legality of court decisions and procedure.³⁷⁸ Wachsmann's thorough and careful analysis of legal terror in Nazi Germany, establishes the courts as not only an important vehicle for the prosecution of the ideologically determined 'Community-aliens and 'Enemies of the people', but, for the purposes of this study, correctly identifies the German courts as a central feature of the Nazi web of terror.³⁷⁹ The courts were wilful and zealous contributors to the exercise of terror and the creation of an atmosphere of menace which was crucial to the maintenance of Hitlerian law and order.

Nazi Germany and the German Courts

During the twelve years of Hitler rule, German jurists actively participated in the persecution of Germans considered to be outside of the 'National-community'. Some 16,000 'Community-aliens' and 'Enemies of the people' were sentenced to death by German civilian courts, the overwhelming majority in the final years of the war. Similarly, hundreds of thousands of Germans were sentenced to terms of incarceration in prison and internment in concentration camps for crimes which had not existed in statute before the Nazi take-over of power. The legal norms and rule of law which had characterised the Weimar Republic were quickly and consistently discarded.³⁸⁰ Jurists willingly worked towards the creation of an increasingly authoritarian and draconian system of justice, driving forward a series of reforms, which although had some legal precedent in the Weimar Republic bore little resemblance to those previous incarnations.³⁸¹

As we noted in chapter two, Hitler and the Nazi leadership were keen to expand police power at the expense of both traditional government departments and the courts in particular, freeing the police from existing legal constraints and external supervision.³⁸² The

³⁷⁸ Wachsmann, N, *Hitler's Prisons*, pp. 8 - 10.

³⁷⁹ Wachsmann, N, *Hitler's Prisons*, p. 373.

³⁸⁰ Richter, I., *Hochverratsprozesse als Herrschaftspraxis im Nationalsozialismus*, pp. 26 - 30.

³⁸¹ Richter, I., *Hochverratsprozesse als Herrschaftspraxis im Nationalsozialismus*, p. 28.

³⁸² Gruchmann, L., *Justiz im Dritten Reich*, pp. 535 - 539.

Nazi leadership also chose to side with the police when court and police jurisdictions collided during the frequent jockeying for power within the ill-defined hierarchy of Nazi government.³⁸³ During the final years of the war the persecution and prosecution of Germans suspected of having perpetrated a political 'offence' was frequently conducted by the police alone without the involvement of the courts. Yet, despite the considerable misgivings and suspicions of senior Nazis, the legal system not only remained in place but was of central importance to the creation of a perception of threat from both within and without which justified many Nazi policies of discrimination and repression.³⁸⁴ In most areas of law, the courts retained the authority to try and sentence those suspected of misdemeanour. In numerical terms alone, the number of Germans brought to trial before the courts grew considerably as aspects of civil life were slowly criminalised through ideologised legislation intended to allow the prosecution of political organisation, racial interaction and social behaviour deemed 'un-German' and to the detriment of the nation.

The function of the courts in the prosecution of perceived enmity was varied, their role was not restricted to the punishment of suspected 'Enemies of the people'. The existence of the courts and the process of public trial legitimised other forms of prosecution. Stories of sentences and their execution regularly appeared in the press; their details supplied by the press offices attached to the courts which were subordinate to the Ministry of Propaganda.³⁸⁵ The reports of prosecutions published in the co-opted Nazi press reflected more the political priorities of the regime than the legal reality of the trial.³⁸⁶ Cumulatively, the legal 'revelation' of Communist machination, criminality and racial degeneracy, reinforced the notion of a nation under attack from both within and without and justified increasingly radical and often extra-legal measures to safeguard the future of the Reich.³⁸⁷ Trial was also an effective vehicle for propaganda. It enabled the Hitler regime to demonstrate purpose and emphasised the differences between it and the Weimar governments which had gone

³⁸³ Padshaw, P., *Himmler: Reichsführer SS*, pp. 182 - 284

³⁸⁴ Lauf, E., *Der Volksgerichtshof und seine Beobachter*, p. 165.

³⁸⁵ Lauf, E., *Der Volksgerichtshof und seine Beobachter*, p. 75.

³⁸⁶ Lauf, E., *Der Volksgerichtshof und seine Beobachter*, pp. 163 - 166.

³⁸⁷ Lauf, E., *Der Volksgerichtshof und seine Beobachter*, p. 12.

before. Weimar governments had presided over a perceived explosion in crime,³⁸⁸ and the promise to restore order had been of central importance to the electoral appeal of Hitler and the Nazi movement.³⁸⁹ The Hitler regime would not tolerate the flagrant criminality of the previous fourteen years; it would be seen to stamp hard on crime in its many manifestations, callously ignoring the leading role of the SA and other Nazi organisations in the endemic street violence that marred the final years of the Weimar Republic.

The continued existence of the legal system also served to provide reassurance to many Germans, initially uneasy at the prospect of Hitlerian government. It affirmed the importance of the maintenance of law and order. Similarly, a continued reliance on the justice system provided a sense of continuity in troubled times, allowing for the acceptance of radical, 'temporary' measures. The courts provided a necessary corollary to police power and arbitrary rule. As Nikolaus Wachsmann has convincingly argued, had Hitler followed his own deep-rooted suspicion of the justice system and relied solely on a form of police justice, he would have destroyed a great deal of support on which his claim to rule rested.³⁹⁰ The courts also provided a useful scapegoat. As a traditional institution with clear links to the past, judicial leniency and incompetence could be held responsible for any failings in policies aimed at national cohesion.³⁹¹ The alleged vested interests of the jurists, and the perceived alienation of the judiciary from popular sentiment, diverted popular attention away from the police who were more closely associated with the Nazi leadership and Hitler in particular. The functions outlined above were fundamental not only to the creation of the atmosphere of menace and potential terror but also to the legitimisation of the continued exercise of that terror. The elaboration of the roles of the Special Courts (particularly that in Munich) and the People's Court in the creation of an atmosphere of pervasive lurking terror will form the basis of the remainder of this chapter.

³⁸⁸ Evans, R., *The Coming of the Third Reich*, p. 134.

³⁸⁹ Kershaw, I., *The Hitler Myth: Image and Reality in the Third Reich*, pp. 89 - 93.

³⁹⁰ Wachsmann, N., *Hitler's Prisons*, pp. 372 - 373.

³⁹¹ Wachsmann, N., *Hitler's Prisons*, p. 372.

A New Conceptualisation of Justice.

Considerable scholarly argument has been expounded as to the 'legality' and 'normality' of the Nazi legal system. Claims to both ideas have formed the often successful defences of Nazi judges brought to trial in the post-war period for war crimes and murder.³⁹² It is clear that in many areas of law a semblance of normality and legality remained, particularly in the field of civil law.³⁹³ Understandings of legal right and obligation were necessary to maintain civil society. Notions of ownership and property needed a legal foundation to safeguard even the most basic transactions and prevent a descent into absolute anarchy. This was recognised by many leading Nazis, including National Socialism's first Minister of Justice, Fritz Gürtner, who repeatedly stressed the need for legalist 'law and order'.³⁹⁴ So too, in the field of criminal law did certain legal norms remain in place. Generally speaking, theft remained theft. Yet even in these arenas, justice underwent considerable change. Race, ideology and socialisation affected the serving of both criminal and civil justice.³⁹⁵ Given the multiplicity of crimes, both large and small, inflicted by German citizens on that group, few German Jews were served justly by the courts. Importantly, no individual, regardless of race, gender and class, was afforded rights in relationship to the state.

National Socialism envisioned a form of justice that was imbued with ideological and political imperatives, which would correct the perceived failings of the previous system. No longer would the state be beholden to the rights of the individual before the law; rather the rights of a racially and political conceived 'National-community' were to take precedence over all. Nazi leaders were deeply suspicious of the conservatism of many Weimar jurists and were sceptical of their ability and, indeed, their willingness to realise the Nazi conceptualisation of justice. However, Hitler's distrust was misplaced.³⁹⁶ Although most German jurists had not been enthusiastic supporters of the NSDAP before 1933, they became loyal acolytes of

³⁹² Marxen, K., 'Die Rechtsprechung des Volksgerichtshofs', p. 13

³⁹³ Fraenkel, E., *Der Doppelstaat*, p. 84.

³⁹⁴ Gruchmann, L., *Justiz im Dritten Reich*, pp. 67 - 69.

³⁹⁵ Burleigh, M., *The Third Reich*, pp. 158 - 178.

³⁹⁶ Wachsmann, N., *Hitler's Prisons*, pp. 388 - 391.

the Hitlerian creed and willingly accepted the demands placed on the justice system.³⁹⁷

German jurists had mostly belonged to the Nationalistic right and whilst they might have felt some distaste at the extremes of Nazi violence, they shared many of the broader more authoritarian aims of the Nazi movement, including the reversal of many of the liberal, individualistic advances secured during the Weimar Republic.³⁹⁸ In common with most other German institutions of state under Nazism, few jurists were removed from their posts under the terms of the 'Law for the Restoration of a Professional Civil Service' of 7th April 1933 (*Gesetz zur Wiederherstellung eines Berufsbeamtenstands*) intended to purge the civil service of political and racial undesirables. In the largest of the German states, Prussia, only four per cent of over six thousand judges and state prosecutors were dismissed for political and racial unreliability.³⁹⁹

The new tone of the law was made clear from the very outset of Nazi rule. Hitler and other leading figures within the Nazi leadership demanded that judges should not serve an abstracted notion of justice but rather subordinate the law to the 'national interest', expressed in the will of Hitler and the new government.⁴⁰⁰ These calls met with no resistance from the legal establishment.⁴⁰¹ Indeed, many legal experts went to considerable lengths to demonstrate how this might best be achieved, giving legal expression to the 'friend-foe' theories expounded by Hitler.⁴⁰² Within weeks of the Nazi take-over, German jurists and officials in the Ministry of Justice had actively participated in the drafting and implementation of legislation which swept aside traditional understandings of justice and led to the abolition of Germany's independent judiciary. Prominent legal theorists like Carl Schmitt undermined traditional understandings of law and justice, imagining new considerations which would allow jurists to *legally* circumvent existing restrictions in legal practice. He pointed to the moral obligation to serve the will of the state and 'people' in the first instance.⁴⁰³ Echoing the 1935

³⁹⁷ Richter, I., *Hochverratsprozesse als Herrschaftspraxis im Nationalsozialismus*, p. 29.

³⁹⁸ Richter, I., *Hochverratsprozesse als Herrschaftspraxis im Nationalsozialismus*, p. 91.

³⁹⁹ Gruchmann, L., *Justiz im Dritten Reich*, p. 117.

⁴⁰⁰ Burleigh, M., *The Third Reich*, p. 165.

⁴⁰¹ Burleigh, M., *The Third Reich*, p. 163.

⁴⁰² Ortner, H., *Die Hinrichter: Mörder im Dienste Hitlers*, p. 88.

⁴⁰³ Buchheit, G., *Richter in roter Robe: Freisler als Präsident des Volksgerichtshof*, (Munich, 1968), p. 42.

'Law for Changes to the Legal Code' (*Gesetz zur Änderungen des Strafgesetzbuchs*), the then Justice Secretary and later President of the People's Court, Roland Freisler, repeatedly emphasised the need for jurists to pay heed to the 'healthy sentiment of the people' in the consideration of jurisprudence. He argued that consideration of the sentiment was a moral responsibility which would enable judges to escape from the constraints of the written law.⁴⁰⁴ In reality, this mantra proved little more than a pretext for the enforcement of Hitlerian will.

Changing Legal Practice

The reforms to the legal system introduced between 1933 and 1939 provided a firm foundation for the escalation of legal terror during the war.⁴⁰⁵ The changes to court procedure and practice consolidated the essential and intentional shift in the role of justice (outlined above) from a revered abstract to a tool for the state for the persecution of enemies; an increasingly radical facet of the Nazi terror apparatus. As part of this process the rights of the defendant were curtailed and the burden of proof diluted to allow for the faster dispatch of so-called enemies. The defence counsel became a court appointment of little import and the right of the defendant to speak during trial or even articulate a defence was reduced.⁴⁰⁶ The importance of legal training and experience were also undermined for political ends. In People's Court hearings, lay judges of good Nazi provenance shared the bench with trained jurists, ensuring that sentencing in the foremost instance of Nazi justice reflected the political priorities of the regime.⁴⁰⁷ The *Analogienvelle* of 28th June 1935, introduced the concept of 'no crime without punishment' to the consideration of justice. Importantly, this fundamental change to German jurisprudence established legal parity between the intention to commit a crime and realisation of that intention in all areas of law, rather than its limited and partial application to certain crimes of treason as had been the case since 1933.

Increasingly, German law reflected the Nazi legal expert and later governor of much of

⁴⁰⁴ Freisler, F., cited in Buchheit, G., *Richter in roter Robe*, pp. 73 - 74.

⁴⁰⁵ Gruchmann, L., *Justiz im Dritten Reich*, pp. 1111 - 1115.

⁴⁰⁶ Wagner, W., *Der Volksgerichtshof im nationalsozialistischen Staat*, pp. 32 - 33.

⁴⁰⁷ Wagner, W., *Der Volksgerichtshof im nationalsozialistischen Staat*, p. 21.

occupied Poland, Hans Frank's, notorious assertion that 'Justice is whatever is useful to the German people.'⁴⁰⁸ By 1939, Nazi conceptions of justice had saturated judicial understandings.⁴⁰⁹

Nazi legal terror reached its height during the war. Nazi jurists shared with many other members of the Nazi ruling elite the belief that the revolution of 1918 proved that brutal disciplinary measures were necessary to prevent another collapse of the home front. Many legal officials, including Gürtner, Freisler and Crohne had served on the front line during the First World War. They were keen to have learnt the lessons of 1918 and regarded themselves as 'soldiers on the home front'.⁴¹⁰ Freisler, drawing the war analogy to an extreme, referred to the Special Courts as the 'tank corps' of the justice system.⁴¹¹ As we shall see, war time ordinances and brought thousands of Germans into contact with the courts for the first time. Leading Nazis and officials in the Ministry of Justice also issued a series of directives which made clear exactly what was expected of jurists: they were urged to fight 'parasites' with the utmost rigour and were exhorted to bring the full force of the law to bear on those accused of acts of dissent.⁴¹² Consequently, the sentencing policy of the courts became increasingly severe, particularly after 1941 when even the most trivial of 'crimes' were punished with the death sentence. Jurists were increasingly put under pressure to prove they were capable of implementing the will of the Nazi leadership. Despite unprecedented legal terror, Hitler still lambasted the legal establishment as slow and incompetent, particularly in the wake of the Schlitt case in June 1942, in which the presiding judge had failed to sentence to death a man who had abused his wife so badly that she died.⁴¹³ Hitler's withering attack on the judiciary led to a further escalation of legal terror, as jurists sought in the final years of the war to make good Hitler's vision of immediate and brutal justice.

⁴⁰⁸ Frank, H., 'Der Sinn der Strafe', in *BIGefK* 66 (1935), pp. 191 - 192, cited in, Buchheit, G., *Richter in roter Robe*, p. 109.

⁴⁰⁹ Richter, I., *Hochverratsprozesse als Herrschaftspraxis im Nationalsozialismus*, pp. 90 - 92.

⁴¹⁰ Wachsmann, N., *Hitler's Prisons*, p. 195.

⁴¹¹ Freisler: "Panzertruppen" cited in Roser, F., 'Das Sondergericht Essen 1942-1945', p. 75.

⁴¹² Wachsmann, N., *Hitler's Prisons*, p. 195.

⁴¹³ Wachsmann, N., *Hitler's Prisons*, p. 220.

Special Courts and the Weimar Republic

The Special Courts of Nazi Germany were constituted with the explicit aim of circumventing the existing legal mechanisms and of providing a form of justice that would both punish and deter dissenters in a new and changed situation. However, the idea of a 'Special Court' was not new. Indeed, it had both antecedent and origin in the politics of the Weimar Republic. The Weimar courts had been heavily criticised by both leading Nazis and members of the nationalist right.⁴¹⁴ They were regarded as weak, and were widely held responsible for a perceived rise in crime that threatened the very fabric of German society. Perhaps more importantly, many Germans felt that the courts had treated left-wing revolutionaries with undue leniency.⁴¹⁵ Carl Schmitt, was one of many legal experts who had already advocated reform of the legal system before 1933. He attacked the notion of a state based on law and personal liberties.⁴¹⁶ Instead, he advocated a more authoritarian system, calling for an altogether more draconian response to a perceived emergency, arguing for the establishment of courts with reduced burdens of guilt, where the defendant had few rights. Schmitt's call found an echo in the demands of Nazi jurists. Roland Freisler, then a leading light in the Nazi legal firmament, demanded a justice that would 'hurt'.⁴¹⁷ Hans Frank, pre-empting the desires of National Socialism's political leaders, called for the creation of a legal system that would 'knock down' opponents.⁴¹⁸

These calls had already found resonance in governmental and Justice Ministry circles in the final years of the Weimar Republic. Officials in the Ministry of Justice were keen to reverse many of the liberal advances of the Weimar era and saw political capital in the proposed reforms.⁴¹⁹ The 6th October 1931 'Law for the Security of the Economy and Finances and the Combating of Political Atrocities' (*Gesetz zur Sicherung von Wirtschaft und Finanzen*

⁴¹⁴ Richter, I., *Hochverratsprozesse als Herrschaftspraxis im Nationalsozialismus*, p. 29.

⁴¹⁵ Burleigh, M., *The Third Reich*, p. 158.

⁴¹⁶ Roser, F., 'Das Sondergericht Essen 1942-1945', p. 20.

⁴¹⁷ Freisler, R., 'Gedanken zum Strafvollzuge' in *General-Anzeiger Dortmund* 8th August 1933, cited in

Ortner, H., *Die Hinrichter: Mörder im Dienste Hitlers*, p. 91.

⁴¹⁸ Frank, H., cited in Buchheit, G., *Richter in roter Robe*, p. 109.

⁴¹⁹ Gruchmann, L., *Justiz im Dritten Reich*, pp. 947 - 948.

und zur Bekämpfung politischer Ausschreitungen) had allowed for the constitution of Special Courts with reduced burdens of proof and limited rights of defence, although with a great many more safeguards than would be the norm under Nazi rule. Special Courts had also been convened in the aftermath of the failed Communist uprising in Thuringia for the trial of insurgents in 1923 but had been quickly abolished thereafter. The laws concerning Special Courts were further consolidated in the Presidential Decree of 9th August 1932 which gave permanent statutory provision for the establishment of Special Courts external to the authority of the previous year's law. Although a direct line of development cannot be drawn between the Special Courts of the Weimar Republic, which were abolished under legislation drawn up by the short-lived government led by General Kurt von Schleicher, and those of Nazi Germany, importantly, a precedent had been set.

The Special Courts of Nazi Germany

The legal foundation of the Special Courts of Nazi Germany was set out in the Presidential Decree of the 21st March 1933 for the 'Defence against Malicious Attacks on the Government of the National Uprising' (*Notverordnung zur Abwehr heimtückischer Angriffe gegen die Regierung der nationalen Erhebung*). Ministry of Justice officials had drafted the decree in response to cabinet criticism of the legal system's failure to adequately defend the state from acts of 'treason and high treason' perpetrated by Communists and Social-democrats.⁴²⁰ The legislation built on the provisions of the Reichstag Fire Decree of the previous month and was one of many discriminatory laws, criminalising political association and withdrawing basic constitutional freedoms introduced in the first months of Nazi rule. This body of legislation formed the legal basis of the terror directed by the institutions of both party and state against the political left.⁴²¹ It enabled what Gürtner referred to as a 'ruthless struggle against the KPD'.⁴²² Writing in the legal journal *German Justice Deutsche Justiz* in April 1933, the leading Nazi jurist, Dr Wilhelm Crohne, made clear the

⁴²⁰ Wachsmann, N., *Hitler's Prisons*, p. 114.

⁴²¹ Gruchmann, L., *Justiz im Dritten Reich*, pp. 535 - 536.

⁴²² Gürtner, F., 'Eine rücksichtslos Auseinandersetzung mit der KPD' cited in Gruchmann, L., *Justiz im Dritten Reich*, p. 536.

role of jurists appointed to the Special Courts:

'Special Court judges must always remember when applying the law, particularly when deliberating the sentence, that when considering the case, other circumstances must be considered than is the case in more peaceful times.'⁴²³

He continued, emphasising the function of the new courts within the legal system 'that the sentence really does follow on directly from the verdict... that it is immediately and ruthlessly applied, in order to frighten National-comrades'.⁴²⁴ In statements such as these, issued both as memoranda from the Ministry of Justice, and as articles in the legal press, the political colouring and intent of the new courts was made apparent to jurists.

Special Courts were set up in each of Germany's twenty-six Higher State judicial districts, paralleling the traditional court structure. Similarities with the traditional courts were, however, few. Trial before the Special Courts was faster.⁴²⁵ The curtailment of defendants rights outlined earlier, was justified in the attempt to secure convictions and precipitate the dispatch of justice.⁴²⁶ Prosecuting counsels were not required to inform the defendants of the charges they were to answer. Moreover, defendants possessed no right of appeal. Importantly, judicial guidelines issued by the Ministry of Justice ensured that 'correct' judicial conclusions were reached and that a possible preoccupation with legal desiderata did not interfere with sentencing.⁴²⁷ Trials were conducted by judges deemed to be politically reliable and to have shown due diligence in the struggle against the regime's enemies. The Court President, the most senior, and frequently most radical, of the three presiding judges could

⁴²³ 'Der Sonderrichter muß sich bei der Rechtsanwendung wie Strafzumessung stets vor der Augen halten, daß er an die Beurteilung des Falles mit anderen Bedanken herantreten muss, als in ruhigen Zeiten den Fall ist', Crohne, W., 'Bedeutung und Aufgabe der Sondergerichte' in *Deutsche Justiz 1933*, p. 384, cited in Keldungs, K., 'Das Duisburger Sondergericht 1942-1945', p. 4.

⁴²⁴ '...daß wirklich der Tat die Strafe auf der Füße folgt... und sofort und rücksichtslos vollstreckt (wird), um Gesinnungsgenossen zu schrecken', Crohne, W., 'Bedeutung und Aufgabe der Sondergerichte', p. 384, cited in Gruchmann, L., *Justiz im Dritten Reich*, p. 948.

⁴²⁵ Hüttenberger, P., 'Heimtücke-fälle vor dem Sondergericht München', p. 436.

⁴²⁶ Angermund, R., *Justiz als Instrument politischer Verfolgung*, p. 57.

⁴²⁷ Roser, F., 'Das Sondergericht Essen 1942-1945', p. 20.

pass sentence without the consent of his colleagues. The odds were stacked against the defendant.

In the event, only seemingly clear cut cases were heard before the Special Courts.⁴²⁸ Trials in which guilt was less than certain continued to be heard before the traditional courts, in order that the image of Nazi justice embodied in the Special Courts should not be tarnished.⁴²⁹ Those brought to answer charges before the Special Courts were mostly left-wing opponents of the regime, tried for infringements of the Malice law which was further substantiated and refined in the 1934 'Law against Malicious attacks on the Party and State' (*Gesetz gegen heimtückische Angriffe auf Staat und Partei und zum Schutz der Parteiuniformen*). The legal formulation of Malice was deliberately nebulous: loosely defined as any attack on the offices, or persons of the party or state. It was a catchall, intended as a legal vehicle for the persecution of the regime's opponents. The trial of Malice dominated proceedings at the Munich Special Court in the pre-war period, one of three Bavarian Special Courts founded in March 1933. Nuremberg and Bamberg, the seats of the other Bavarian Higher State Courts, were also home to Special Courts. In the pre-war period alone, 5,069 Germans were under the Malice statute and tried before the Munich Special Court.⁴³⁰ Although the proportion of cases brought under that statute declined as the jurisdiction of the Special Courts was increased, trials of Malice remained of central importance to the prosecution of dissent.⁴³¹ A succession of laws drafted between June 1933 and 1935, declared the Special Courts responsible for numerous, new, high-profile statute. Crimes against railway and air installations, civil servants and foreign exchange rules all became the jurisdiction of the Special Courts as opposed to the state and Higher State Courts as had been the case previously.

⁴²⁸ Keldungs, K., 'Das Duisburger Sondergericht 1942-1945', p. 7.

⁴²⁹ Gruchmann, L., *Justiz im Dritten Reich*, p. 950.

⁴³⁰ Hüttenberger, P., 'Heimtückefälle vor dem Sondergericht München', p. 444.

⁴³¹ Hüttenberger, P., 'Heimtückefälle vor dem Sondergericht München', pp. 336 - 338.

The Special Courts in Wartime

War time legislation brought further new categories of crime into the jurisdiction of the Special Courts as new ordinances criminalised and made public many aspects of everyday life. The 1939 'Law for the Administration of Justice and Judicial Jurisdictions in Wartime' (*Verordnung über Massnahmen auf dem Gebiet der Gerichtsverfassung und der Rechtspflege*) outlined the greatly expanded role the Special courts would play in the administration of civilian justice during wartime, stating that most new legislation would fall under Special Court jurisdiction.⁴³² New wartime laws announced by the Ministry of Propaganda on 1st September 1939 forbade the listening of foreign radio broadcasts (*Verordnung über außerordentliche Rundfunkmaßnahmen*). The wartime codex was further consolidated through legislation promulgated by the the Ministry of Justice on 4th September 1939 governing the war economy (*Kriegswirtschaftsverordnung*) which introduced stringent new regulations in many areas of economic activity and criminalised the association of Germans with the foreign labourers from the newly conquered nations forcibly imported to make up the short fall in German labour and the 25th November 1939 'Law for the Protection of German Fighting Strength' (*Wehrkraftschutzverordnung*) which strengthened existing legislation on Malice and prohibited the expression of defeatist sentiments. Sentencing too became increasingly draconian, as custodial tariffs were increased. Even if the 'war tariff' (*Kriegszusatz*) proposed by Gürtner in an internal memo to then State Secretary, Freisler, dated 24th October 1939, was never officially adopted, sentences handed by the judicial bench were entirely, and increasingly, disproportionate to the reality of the crime.⁴³³

⁴³² Keldungs, K., 'Das Duisburger Sondergericht', p. 6.

⁴³³ Keldungs, K., 'Das Duisburger Sondergericht', p. 16.

Expansion and Personnel

The legal historian Lothar Gruchmann has pointed to the cancer-like spread of the Special Courts through the civilian justice system between 1939 and 1945.⁴³⁴ 'The Law for the Administration of Justice and Judicial Jurisdictions in Wartime' had sanctioned the physical expansion of the Special Court system. It allowed for the establishment of Special Courts in the jurisdiction of each of the one hundred and twenty-six State Courts rather than, as previously, only in that of the Higher State Courts. New Special Courts were quickly established in cities close to the seats of existing courts where the caseload had proved too great. Special Courts were constituted in Essen in January 1940 and Duisburg in July 1942 to help alleviate the work of the overburdened Düsseldorf Special Court.⁴³⁵ In total the number of Special courts in Germany more than doubled to sixty three during the six years of fighting.⁴³⁶ The number of jurists working for each Special Court also increased in order that the rise in prosecutions could be processed. Staffing levels at the Essen Special Court almost doubled in the period considered.⁴³⁷ The number of cases tried by the Special Courts also increased significantly during the war. The surviving records indicate that the number of cases heard was almost forty per cent higher for certain Special Courts in 1940 than it had been in 1939.⁴³⁸ The Munich Special Court tried some 1,328 defendants in 1939. This total had risen to almost 1,800 by 1941 and mirrors developments in Frankfurt am Main, Düsseldorf and Braunschweig, where proportionally similar rises in the number of cases brought before the Special Courts in those cities have been recorded.⁴³⁹ Thereafter, the figures levelled out for the duration of the war, a reflection more of bottleneck in the legal system as of any reticence to prosecute dissent.

⁴³⁴ Gruchmann, L., *Justiz im Dritten Reich*, p. 953.

⁴³⁵ Roser, F., 'Das Sondergericht Essen 1942-1945', p. 77., & Keldungs, K., 'Das Duisburger Sondergericht', p. 8.

⁴³⁶ Gellately, R., *Backing Hitler*, p. 47.

⁴³⁷ Roser, F., 'Das Sondergericht Essen 1942-1945', p. 79.

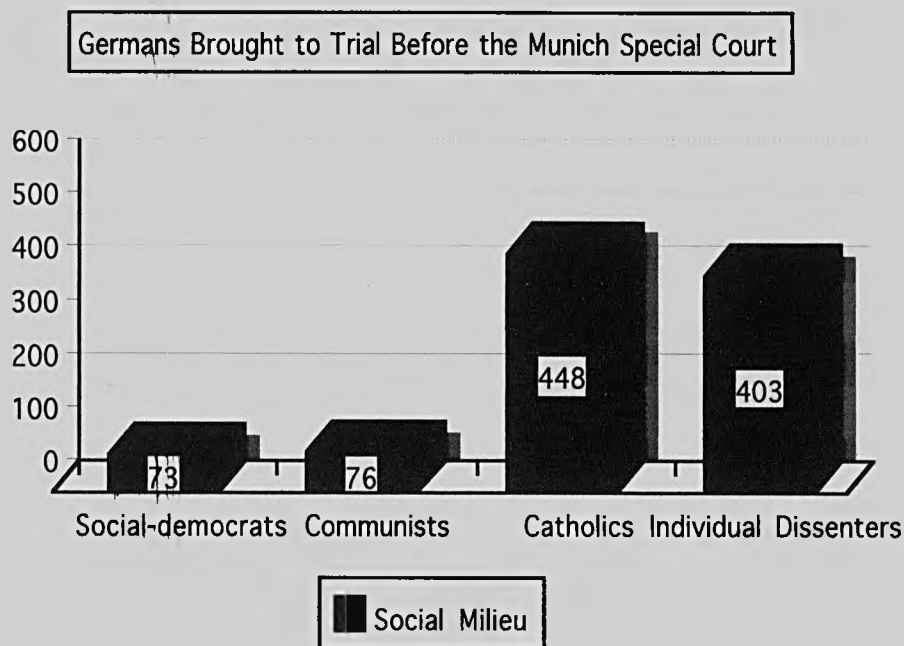
⁴³⁸ Gellately, R., *Backing Hitler*, p. 86.

⁴³⁹ Wachsmann, N., *Hitler's Prisons*, pp. 400 - 401.

Politics and Deterrence

During the war, the Special Courts were the preferred medium for the trial of political crimes (but not treason) and the most serious criminal offences.⁴⁴⁰ In our sample, a total of one hundred and forty-nine (14.9%) Communists and Social-democrats were brought to trial before the Munich Special Court. Whilst some of the charges brought against both Communists and Social-democrats might have lacked an explicitly political dimension, the trials possessed clear political bias. Building on a tradition of judicial practice established during the political trials of the Weimar Republic, the political beliefs of the accused were cited as justification enough for sentences much longer than was otherwise the norm.⁴⁴¹ Indeed, accusations of criminality were founded on the political beliefs of the defendant.⁴⁴² In

Figure 3



⁴⁴⁰ Gruchmann, L., *Justiz im Dritten Reich*, p. 952.

⁴⁴¹ Hüttenberger, P., 'Heimtückefälle vor dem Sondergericht München', pp. 443 - 444

⁴⁴² Hüttenberger, P., 'Heimtückefälle vor dem Sondergericht München', p. 405

our sample, members of the SPD and KPD were convicted for Radio-offences (55 cases 5.5%), Malice, grumbling and defeatism (77 cases - 7.7%), others were charged with liaison with foreign workers and economic crimes. The files reveal that considerable play was made during the trial proceedings of the defendants 'political unreliability' and citations of previous instances of political agitation were used to determine guilt.

The punitive and terroristic purpose of the Special Courts was continually exhorted in both directives and speeches addressed to German jurists.⁴⁴³ Addressing senior jurists in September 1942, Gürtner's eventual replacement as Minister of justice, Otto Thierack, implored jurists to be 'brutally hard' when sentencing those considered through their 'crime' to have withdrawn from the 'National-community'.⁴⁴⁴ Written memoranda issued to jurists by the Ministry of Justice demanded that the home front be strengthened through judicial terror; that judges show no quarter to criminals and would be dissenters.⁴⁴⁵ The emphasis on terror and deterrence was made clear in the severity of the sentences passed by the Special Courts.⁴⁴⁶ During the four years considered, eight per cent of sentences passed down by the Berlin Special Court were capital sentences.⁴⁴⁷ The Munich and Bremen Special Courts recorded a figure only marginally lower of six per cent.⁴⁴⁸ Custodial sentences also increased in length. The average length of sentence passed by the Munich Special Court had increased from six months before the outbreak of war to eighteen months in the period considered. Sentences of much greater length were also passed. In more serious cases, life tariffs were not uncommon. Increasingly, trials before the Special Courts developed more the character of a drumhead court martial dispensing politicised justice.⁴⁴⁹

In a continued effort to shore up discipline on the home front, tens of thousands of Germans

⁴⁴³ Roser, F., 'Das Sondergericht Essen 1942-1945', p. 20.

⁴⁴⁴ Roser, F., 'Das Sondergericht Essen 1942-1945', p. 90.

⁴⁴⁵ Wachsmann, N., *Hitler's Prisons*, p. 219.

⁴⁴⁶ Keldungs, K., 'Das Duisburger Sondergericht', p. 25.

⁴⁴⁷ Figure for the Berlin Special Court cited in Knobelsdorf, A., 'Das Bielefelder Landgericht 1933-1945' in Angermund, R., & Schuhmacher, B. (eds.) *Justiz und Nationalsozialismus Band. 1*, (1993, Düsseldorf), p. 93.

⁴⁴⁸ Knobelsdorf, A., 'Das Bielefelder Landgericht 1933-1945', p. 94.

⁴⁴⁹ Gellately, R., *Backing Hitler*, p. 79.

were forced to answer seemingly minor charges before the Special Courts. Between 1941 and 1945 seventy-three per cent of all criminal cases were heard before the senates of the Hamburg Special Court.⁴⁵⁰ The Munich Special Court saw a considerable increase in the number of defendants charged with Black Marketeering as well as Malice and Defeatism, reflecting new and changing priorities. The trial of seemingly more trivial, and indeed ordinary crime, before the Special Courts was not indicative of a reduction in status or normalisation of the Special Courts but rather reflected the determination of the Nazi leadership to maintain absolute control of the home front through the exercise of terror. The war had brought with it certain unforeseen circumstances including a proliferation in economic crime in defiance of the wartime ration ordinances first introduced in September 1939 and progressively and un-popularly tightened thereafter. The severity with which black-marketeers were dealt with by the courts (including several hundred death sentences in the final two years of the war) and the exposure of this type of crime through public trial, demonstrated the seriousness with which the regime regarded seemingly trivial crime.⁴⁵¹ In 1944 alone, 1,621 death sentences were passed for infringements of the property crime statute.⁴⁵²

In this respect, the case of Otilie Schächer, tried by the Munich Special Court in Summer 1942, is instructive.⁴⁵³ The regime was keen to prevent association between Germans and forced foreign labourers brought to Germany to fill the labour gap created by mobilisation.⁴⁵⁴ In Catholic Bavaria, large numbers of Germans ignored the regime's strictures and entertained relationships with non-Germans, holding notions of Catholic fealty higher than the racial separatism desired by the regime.⁴⁵⁵ Schächer was the young single mother of a child of one year and three months when she was brought before the Munich Special Court charged with having had an illicit affair with the French POW and forced labourer, Pierre Allix.

Schächer had been born in the small, strictly Catholic, agricultural village of Thalhausen, near

⁴⁵⁰ Gellately, R., *Backing Hitler*, p. 49.

⁴⁵¹ Gellately, R., *Backing Hitler*, pp. 81 - 82.

⁴⁵² Wachsmann, N., *Hitler's Prisons*, p.

⁴⁵³ BStA M: Sondergericht 11352.

⁴⁵⁴ Gellately, R., *Backing Hitler*, p. 151.

⁴⁵⁵ Breuer, T., *Verordneter Wandel?*, p. 304.

Freising. She was the illegitimate daughter of a farm labourer. Brought up in considerable poverty by her mother, she had attended the local elementary school until she was fourteen years old. By the time she had finished her final year of schooling, Schächer had already worked on farms in the local area as a dairy maid. From late 1940 she was employed by farmer Spiegel as both a dairy maid and farm help.

It was on the Spiegel farm that she came into contact with Allix, a French POW detailed to a neighbouring farm. Allix was frequently sent to the Spiegel farm to buy hay. A relationship developed between Schächer and Allix, initially based on winks and smiles, and thereafter the presentation of gifts. No mention is made of promiscuity but the friendship still met with the opprobrium of the authorities. On 10th June 1942, she was sentenced to ten months' imprisonment. Although the sentence is not long, it is certainly severe for such a trivial crime and is indicative of the many short but brutal sentences passed down by the Special Courts to Germans who otherwise would have had little contact with the legal authorities. Conditions in the penitentiaries and camps of Nazi Germany were poor and the prison routine was characterised by hard-labour in the service of the state. Importantly, the survival of the prisoner was by no means guaranteed. We should also remember that this was a public trial, its outcome possibly reported in the local press. Sentence passed by the Special Courts were intended to be instructive.

A Changing Understanding of Malice

Trials of Malice had traditionally formed the largest proportion of cases heard before the Special Court cases (253 examples in our survey). The Malice statute had been conceived to facilitate the legal prosecution of political enemies, and had proved effective as a tool for the persecution of the political left.⁴⁵⁶ Although this intention remained unchanged, the interpretation of Malice by the courts during the war became increasingly

⁴⁵⁶ Mallmann, K., & Paul, G., *Herrschaft und Alltag: Ein Industrieviertel im Dritten Reich. Widerstand und Verweigerung im Saarland 1935-1945. Band I.*, p. 330.

broad and less overtly politicised.⁴⁵⁷ The Malice statute as interpreted by the Special Courts was increasingly employed to prosecute Germans from all social and political backgrounds, propagating the potential threat of terror through the general population, rather than prosecuting a more actively political minority of Germans (see table 12, p. 216).⁴⁵⁸ Maria Goss, a pensioner from Munich, was sentenced by the Munich Special Court to two years imprisonment in June 1941 for allegedly saying to her lodger during a radio broadcast of a Führer speech, 'there goes that clown again'. She was then claimed to have stated that Hitler was a 'swindler'.⁴⁵⁹ Goss had no history of political activity. She was a respectable widow whose husband had been a respected professor. Moreover, the testimony on which she had been convicted was less than sound. She and her lodger were known to have quarrelled. Yet she was still charged, dragged through ignominy of trial and sentenced.

In assessing the role of the Special Courts within the Nazi terror apparatus, it is important that we bear certain key points in mind. Firstly, the purpose of the Special Courts was punitive and not just. Secondly, trial before the Special Courts had certain propagandistic aims; brutal and swift Nazi justice would be seen to be done; Nazism would be seen to be tough on crime; a real and violent message would be delivered to opponents. Thirdly, trial before the Special courts was both public and publicised; it legitimised the use of legal and extra-legal terror and helped perpetuate a climate of fear and menace. The Special Courts and its jurists were expected to set an example to be followed by other courts. This was made clear in the acclamatory statements made by leading figures within the Ministry of Justice. Perhaps more significantly, the promotion of ideological zealots determined an ever more radical approach to the serving of justice.⁴⁶⁰ The terroristic nature of the courts was further reinforced by the clear political bias demonstrated by its jurists in sentencing defendants. The Special Courts embodied the Nazi conception of justice at a regional level and played an important and growing role in the persecution of Nazism's enemies, characterised by growing radicalism and disdain for due legal process.

⁴⁵⁷ Gruchmann, L., *Justiz im Dritten Reich*, p. 953.

⁴⁵⁸ Keldungs, K., 'Das Duisburger Sondergericht', p. 25.

⁴⁵⁹ BStA M: Sondergericht 10410. 'Jetzt redet der Hanswurst schon wieder!' and 'Hochstapler'

⁴⁶⁰ Douma, E., 'Der "Einsatz" der Rechtsanwälte in der Justiz während des Zweiten Weltkrieges', p. 127.

The People's Court and the Nazi Justice System

Constituted in April 1934 for the trial of cases of treason, the People's Court in Berlin was a characteristically Nazi response to the perceived failings of the legal establishment.⁴⁶¹ The People's Court was not intended to replace the existing Supreme court, nor were its role or jurisdiction within the justice system ever adequately defined.⁴⁶² However, it came to be the primary Nazi court and it is the People's Court with which Nazi justice is most clearly associated. Despite its short existence, the People's Court has gained historical notoriety as a 'blood tribunal'.⁴⁶³ The condemnation explicit in the term focuses on two specific issues. Firstly; the very high number of death sentences passed by the People's Court between 1941 and 1945 which has led Günther Wieland to suggest that People's Court judges were wilful participants in mass murder.⁴⁶⁴ Secondly, the term draws attention to the clear abuses of judicial procedure. Defendants brought to answer charges before the court, enjoyed no right to fair trial. Instead, they were subjected to a highly politicised and barbaric form of justice.⁴⁶⁵

German jurists willingly complied with the 'spirit' of the 'National revolution', and worked towards a new interpretation of justice founded on the ideas of punishment and terror. In doing so, they provided a clear framework for the later radicalisation of legal terror which eventually produced this 'blood tribunal'. Whilst the Ministry of Justice officials who promulgated the 24th April 1934 'Law for Treason and High Treason' (*Gesetz über Hoch- und Landesverrat*) and the 'Law for the Constitution of a People's Court' of 12th June 1934 (*Gesetz über den Volksgerichtshof*) had sought to bring about a more politicised form of justice that would indeed terrorise the opponents of Nazism, there is little evidence to suggest that they had envisioned or anticipated the later and bloody reality of the People's

⁴⁶¹ Wagner, W., *Der Volksgerichtshof im nationalsozialistischen Staat*, p. 18.

⁴⁶² Richter, I., *Hochverratsprozesse als Herrschaftspraxis im Nationalsozialismus*, pp. 41 - 42.

⁴⁶³ The phrase 'blood tribunal' was coined by the East German historian, Günther Wieland, (Wieland, G., *Das war der Volksgerichtshof*, p. 8). The moral condemnation explicit in his conceptualisation of the People's Court, has acted as a catalyst to historical writing on the subject, causing argument as to the legality and criminality of court decisions.

⁴⁶⁴ Wieland, G., *Das war der Volksgerichtshof*, pp. 8 - 9.

⁴⁶⁵ Wieland, G., *Das war der Volksgerichtshof*, p. 64.

Court and its practice between 1941 and 1945. Certainly, the reform of the legal system was intended to lay a basis for terror and early changes consciously set in process the radicalisation which led to an arbitrary and highly politicised approach to justice. However, it is the later appointment of Otto Thierack as Court President in 1936, rather than the foundation of the Court itself, that better marks the descent into legal barbarity which reached its high point under the tenure of Roland Freisler after 1942. Under Freisler's presidency, judicial verdicts became as pure a realisation of a Hitlerian conception of justice as was achieved during the Third Reich. They were rarely influenced by traditional understandings of jurisprudence. The terroristic character of trial before the People's Court was made chilling clear in a speech made by Goebbels to senior People's Court judges on 22nd July 1942: Judicial deliberations should 'only consider the purpose of the verdict... they should not be founded in law, but rather from the assumption, the man should be done away with.'⁴⁶⁶

The People's Court had been set up at the instigation of Hitler and other leading Nazis who were angered at the Supreme Court's decision to acquit the three Bulgarians, Popoff, Tanev and Dimitrov and one Communist MP Ernst Törgler, charged with Marinus van der Lubbe for the Reichstag Fire in December 1933.⁴⁶⁷ Hitler, in a pique of rage, had described the decision to acquit the three Bulgarians and Törgler, as 'mad' to cabinet colleagues.⁴⁶⁸ The Supreme Court's verdict had flown in the face of very public Nazi demands for the execution of all five defendants under the terms of the Reichstag Fire Decree which had mandated the death penalty as a punishment for acts of arson. A second piece of legislation passed on the 29th March 1933, the 'Law for the Passing and Execution of the Death Penalty' (*Gesetz der Verhängung und Vollzug der Todesstrafe*), provided for the retrospective application of the death penalty. Despite the initial misgivings of officials in the Ministry of Justice at the confusion the new law might cause, the new law, which came to be

⁴⁶⁶ Goebbels: "nur um die Zweckmässigkeit der Entscheidung (gehen)... Es sei nicht vom Gesetz ausgehen, sondern von dem Entschluß, der Mann müsse weg", cited in Gruchmann, L., *Justiz im Dritten Reich*, p. 964.

⁴⁶⁷ Richter, I., *Hochverratsprozesse als Herrschaftspraxis im Nationalsozialismus*, p. 30.

⁴⁶⁸ Wagner, W., *Der Volksgerichtshof im nationalsozialistischen Staat*, p. 17.

known as *Lex van der Lubbe*, was eventually applied to all areas of crime.⁴⁶⁹ Importantly, it dispensed with the hitherto sacrosanct legal principle of 'No punishment without law' (*nulla poena sine lege*) and enabled the legal prosecution of 'political' acts committed before their criminalisation. Of the five defendants charged with the Reichstag fire, only van der Lubbe was eventually guillotined on 10th January 1934. Popoff, Tanev and Dimitrov were expelled to the Soviet Union and Törgler was allowed to live as a private citizen, after a lengthy period in protective custody.

Following the Supreme Court judges' verdict, moves were initiated by leading officials in the Ministry of Justice to supersede the existing legal structures with a body capable of delivering sentences in accordance with the wishes of the regime. Hitler had first suggested the creation of a new court for the trial of treason to the cabinet on 23rd March 1934.⁴⁷⁰ Indeed, a 'People's Court' had been proposed by Ministry of Justice officials to try van der Lubbe and his supposed accomplices,⁴⁷¹ but the proposal had eventually been rejected as it would have necessitated unwelcome, and difficult changes to the constitution.⁴⁷² In the aftermath of the Supreme Court trial, with Nazi rule more firmly entrenched, such legalistic considerations were of less significance. Importantly, the trial of van der Lubbe and his co-defendants had not only confirmed Hitler's distrust of the legal system, but had helped to establish the bureaucratic and political will for a more discriminatory and less legalistic form of justice.

Purpose and Jurisdiction

The People's Court was established as a discriminatory institution, intended to instil fear through the severity of its sentencing in those sections of German population who threatened the security of the new government.⁴⁷³ From the outset, appointments to the

⁴⁶⁹ Wachsmann, N., *Hitler's Prisons*, p. 73.

⁴⁷⁰ Wagner, W., *Der Volksgerichtshof im nationalsozialistischen Staat*, p. 17.

⁴⁷¹ Gruchmann, L., *Justiz im Dritten Reich*, p. 958.

⁴⁷² Gruchmann, L., *Justiz im Dritten Reich*, p. 959.

⁴⁷³ Wieland, G., *Das war der Volksgerichtshof*, p. 16.

court benches reflected this intention.⁴⁷⁴ The first president of the People's Court, Fritz Rehn, had demonstrated admirable service and loyalty to the new regime as president of the Berlin Special Court.⁴⁷⁵ The eventual appointments of Karl Engert, Otto Thierack and Roland Freisler, all leading proponents of a more radical approach to justice, and Nazis of long-standing, to leading positions in the People's Court further reinforced the discriminatory character of the new court. Loyalty to the regime and the zealous application of Nazi interpretations of justice took precedence over legal expertise, training and experience.

The laws establishing the People's Court, had removed the trial of treason from the jurisdiction of all other courts. Never before had one court presided alone over a single body of law.⁴⁷⁶ At a stroke, the authority of the People's Court in relation to the traditional courts was augmented and the right of appeal to a higher court was negated.⁴⁷⁷ The body of laws governing crimes of treason set down during the Weimar Republic formed the initial basis of the legal terror as practised by the People's Court. Partly, this suited Nazi ideology. It was contingent with the belief held by many leading Nazi personalities that the regime could only be overthrown through revolution from below.⁴⁷⁸ At an ideological level, it bound all those who sought a regime change to violence and thus to persecution.⁴⁷⁹ It also enabled an existing body of legislation to be employed in the discrimination and terrorisation of perceived enemies without causing undue alarm in more conservatively-minded establishment circles. The Treason statute remained of central importance to the exercise of legal terror and this was reflected not only in the continual expansion of the Treason Codex but also the rise in the number of Germans tried for acts of Treason. In 1937 alone, over 5,000 Germans were brought before the courts on charges of Treason or High Treason.⁴⁸⁰

⁴⁷⁴ Ortner, H., *Der Hinrichter: Mörder im Dienste Hitlers*, p. 36.

⁴⁷⁵ Wieland, G., *Das war der Volksgerichtshof*, p. 13.

⁴⁷⁶ Lauf, E., *Der Volksgerichtshof und seine Beobachter*, p. 18.

⁴⁷⁷ Wagner, W., *Der Volksgerichtshof im nationalsozialistischen Staat*, p. 33.

⁴⁷⁸ Wagner, W., *Der Volksgerichtshof im nationalsozialistischen Staat*, p. 85.

⁴⁷⁹ Wagner, W., *Der Volksgerichtshof im nationalsozialistischen Staat*, p. 86.

⁴⁸⁰ Wachsmann, N., *Hitler's Prisons*, p. 118.

The Presidential Decree of 28th November 1933 for the 'Betrayal of the German Nation and Treasonable Activities' (*Verordnung gegen Verrat am deutschen Volk und Hochverrätische Umtreibe*) had expanded the scope of the existing treason laws and prescribed the death penalty for the sale of military secrets for the first time. It defined treason as any act that endangered either the territoriality of the nation or the constitution.⁴⁸¹ The treason laws were further consolidated the law of 24th April 1934, which defined treason more extensively. High Treason was no longer defined as an attack on the government or head of state but rather as an attack against the people and nation.⁴⁸² This definitional change allowed for the interpretation of seemingly minor crimes as either Treason or High Treason. Thus any attack on state or party, institution or person could be regarded and prosecuted as treason. This constant and gradual tightening of the treason laws brought ever larger numbers of Germans before the People's Court. Throughout its existence, charges brought under the treason statute formed the majority of all cases heard before the People's Court. In the pre-war period, 85% defendants brought before the People's Court had been charged with Treason or High Treason. Although, by 1944 this figure had fallen to 53%, it still accounted for some 2,345 cases.

A Political Bias

A clear political bias directed at the political left permeated the sentencing policy of the People's Court (as we shall see in later chapters). Both in theory and in practice, the treason laws promulgated at the start of Hitler's rule had been directed at the threat from the political left. As many as 3,000 Germans had been tried before the People's Court for acts of Treason in the pre-war period.⁴⁸³ Those brought before the People's Court were overwhelmingly members of left-wing groups, particularly the KPD and the SPD and their affiliated organisations. In the first two years of the courts existence, some 76% of all cases concerned members of the KPD.⁴⁸⁴ During the war the proportion of Germans tried by the

⁴⁸¹ Wagner, W, *Der Volksgerichtshof im nationalsozialistischen Staat*, pp. 50 - 57.

⁴⁸² Wagner, W, *Der Volksgerichtshof im nationalsozialistischen Staat*, p. 50.

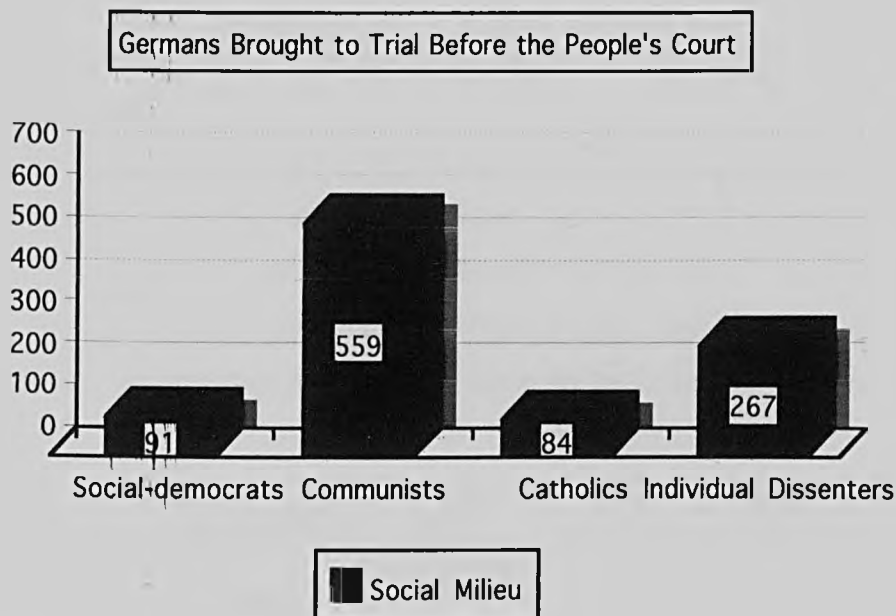
⁴⁸³ Wachsmann, N., *Hitler's Prisons*, p. 117.

⁴⁸⁴ Lauf, E., *Das Volksgerichtshof und seine Beobachter*, pp. 164 - 165.

People's Court declined as ever larger numbers of resisters from the occupied countries of Europe were brought to Berlin for trial, accused of so-called 'Night and fog' (*Nacht und Nebel*) crimes.⁴⁸⁵ Indeed, the majority of defendants who stood trial before the People's Court between 1941 and 1945 were not Germans but Czechs from the Protectorate of Bohemia-Moravia.⁴⁸⁶ However, the trials of German Communists accused of Treason continued to form a substantial proportion of court business.⁴⁸⁷

Between 1941 and 1945 thirty-three per cent of all trials of Germans heard before the People's Court concerned accusations of Communist machination.⁴⁸⁸ The invasion of the Soviet Union had raised the spectre of renewed Communist agitation and the legal terror directed at Communist communities consequently was increased.⁴⁸⁹ Communists already known to the police were arrested in large number on increasingly trivial charges, and

Figure 4



⁴⁸⁵ Marxen, K., *Das Volk und sein Gerichtshof*, p. 34.

⁴⁸⁶ Lauf, E., *Der Volksgerichtshof und seine Beobachter*, p. 48.

⁴⁸⁷ Marxen, K., *Das Volk und sein Gerichtshof*, p. 38.

⁴⁸⁸ Lauf, E., *Der Volksgerichtshof und seine Beobachter*, pp. 236 - 241

⁴⁸⁹ Peukert, D., *Die KPD in Widerstand*, pp. 372 - 381.

brought to trial before the People's Court. The discriminatory practice of the People's Court was made most clear in its sentencing policy. German Communists were more likely to receive longer sentences than their compatriots. On 29th May 1942, the then acting Minister of Justice, Franz Schlegelberger, had suggested in a memo to Hitler that all Communists appearing before the People's Court during wartime should be charged additionally with treason and sentenced to death.⁴⁹⁰ Although his recommendation never became official policy, it influenced sentencing.⁴⁹¹ Communists were more than twice as likely to receive the ultimate penalty as members of other social or political groups.⁴⁹² Over sixty per cent of all Communists brought to trial before the People's Court between 1941 and 1945 were sentenced to death.⁴⁹³ The case of Arthur Hoffmann is indicative of the experience of many thousands of Communists brought to answer charges before the people's Court during the war.⁴⁹⁴ Hoffmann was arrested for the production and distribution of Communist propaganda and leading a resistance cell in Leipzig in the Spring of 1944. His trial was heard in November and he was executed within a week of the announcement of the verdict on 23rd November 1944.

Hoffmann was tried with twelve others, four of whom were executed. He had been born to a poor family in the village of Micheldorf in Saxony on 29th September 1900. When still a child, Hoffmann's family moved to Leipzig in search of work. He received only a basic education and was later apprenticed to a carpenter. He found work only rarely and in 1922 joined the KPD. Hoffmann quickly rose through the party ranks and was appointed cell treasurer, borough leader and town councillor by turns. In 1928 he was elected to the Saxon parliament. Within the year he had risen to be faction leader. His tenure as party leader was short lived and in late 1929 he was ceremoniously removed from office; the result of differences with the KPD leadership in Berlin. With neither family nor stable employment, Hoffmann engaged in increasingly radical Communist Party activity. In 1931,

⁴⁹⁰ Wagner, W, *Der Volksgerichtshof im nationalsozialistischen Staat*, p.119.

⁴⁹¹ Wagner, W, *Der Volksgerichtshof im nationalsozialistischen Staat*, p. 118.

⁴⁹² Wagner, W, *Der Volksgerichtshof im nationalsozialistischen Staat*, pp. 120 - 122.

⁴⁹³ Lauf, E., *Der Volksgerichtshof und seine Beobachter*, p. 239.

⁴⁹⁴ WaH VGH 0196 2H 205/44, 9J 210/44

he led a raid on a Reichswehr barracks, stealing weapons and munitions and anything that might have proved useful in the coming fight. He was duly arrested and sentenced to five years imprisonment for High Treason. He was released early for reasons undisclosed. In 1934, Hoffmann was arrested again and brought before the then newly founded People's Court charged under the Treason statute. He was sentenced to three years imprisonment. Hoffmann was not released until the outbreak of war. In the Summer 1937 he had been transferred to a concentration camp unnamed in the files and detained under the protective custody regulations. Once released, he immediately sought out former KPD associates and started to rebuild the KPD organisation in Leipzig. It was for this that he was re-arrested in the Summer of 1944 and ultimately executed.

Expansion in Wartime

The People's Court played an important role in the prosecution of new offences aimed at suppressing dissent during the war.⁴⁹⁵ As we have seen, a tranche of new legislation introduced during the first years of the war had criminalised many everyday activities and greatly expanded the parameters of legal terror. Increasingly, cases brought under the Radio and Defeatism laws introduced at the outbreak of war were heard before the People's Court as were extreme instances of work-shyness and industrial negligence, often heard as charges of Treason. The People's Court became responsible for the trial of Sabotage under the terms of the 'Decree for the Protection of the Military Economy' of 21st March 1942 (*Verordnung zum Schutz der Rüstungswirtschaft*) and Undermining the Fighting Strength of the German Nation and Desertion under a decree of 29th January 1943 (*Verordnung über Zersetzung der Wehrkraft and Wehrdienstentziehung*). By 1944 twenty per cent of all trials heard by the People's Court concerned the actions of ordinary Germans: men and women who had never before demonstrated enmity towards Nazism.⁴⁹⁶ Many were tried for minor misdemeanours.

⁴⁹⁵ Wachsmann, N., *Hitler's Prisons*, p.192.

⁴⁹⁶ Lauf, E., *Das Volksgerichtshof und seine Beobachter*, p. 237.

This elevation of minor crime is demonstrative of the seriousness with which the Nazi regime regarded the maintenance of discipline on the home front.⁴⁹⁷ The case of Max Wagner is one of one hundred and seventy-two (17.2%) cases in this sample which dealt, either in part or completely, with a radio crime.⁴⁹⁸ Wagner was a former Communist brought to trial before the People's Court with three others on 4th August 1944 for listening to Russian radio broadcasts. He had previously been tried before the Stuttgart Special Court for defaming Hitler in 1941 and had been sentenced to five months imprisonment. He had also been arrested and detained in protective custody shortly after his release from prison, spending four weeks in police detention without charge. There is a certain inevitability about his eventual capital sentence. His case, in many respects, reflects the many characteristics of the People's Court. He was not tried under the radio offence statute, but rather for Treason. He was also accused of Communist machination and of belonging to a Communist group. However, no evidence exists in the court record to support this accusation. In 1930, Wagner had briefly been a member of the KPD but had been expelled within months for non-payment of party dues. He had played no active role in the party organisation, nor is there any evidence of any other political activity, bar the possibility of snatched politicised conversations with his co-accused. His sentence is demonstrative of the desire to strike terror through the severity of sentence.

Guilt and Deterrence

The demonstration of guilt was one of the primary purposes of trial. However, guilt itself was a relative concept. In the case of Communists and Social-democrats, evidence of any earlier political engagement was enough to ensure a guilty verdict to later 'charges' unrelated to that previous activism. The decisions arrived at by People's Court judges were not the consequence of mere legal deliberation but instead had their origin in a complicated process of co-operation between different agencies, aimed at addressing the political priorities set

⁴⁹⁷ Lauf, E., *Das Volksgerichtshof und seine Beobachter*, p. 164.

⁴⁹⁸ WaH VGH 0188, 2H 99/44, 11J 60/44.

by the regime.⁴⁹⁹ Liaison between the presiding judge, State Prosecutor, the Ministry of Justice, the Ministry of Propaganda and the Gestapo ensured that not only were 'correct' verdicts reached and sentences duly passed but that appropriate propagandistic press coverage was organised.⁵⁰⁰ During the war, in 51.6% of all cases heard before the People's Court, the State Prosecutor's sued petition and the sentence passed matched exactly.⁵⁰¹ In many cases, the sentence was more severe than the initial petition.

However, some historians have pointed to the high number of judicial acquittals, particularly in relation to custodial sentences, as proof of 'correct' legal practice.⁵⁰² Certainly, a cursory glance at People's Court verdicts would appear to substantiate this claim. In 1944, at the peak of legal terror, 22% of all defendants brought to trial before the People's Court, were acquitted of all charges. However, this particular line of argument is difficult to sustain.⁵⁰³ A closer examination of the files reveals that the number of acquittals was determined more by a crude 'friend-foe' distinction than by proper legal process. Nazism allowed for no grey areas: defendants were either guilty and therefore an enemy, a danger to the state and expendable, or they were not guilty; their services and labour of use to the 'National-community'. The conceptualisation of justice through this 'friend-foe' model had removed the associated ideas of mitigation and gradations of guilt from German jurisprudence.⁵⁰⁴ Sentences were conveyed to the Ministry of Justice for confirmation.⁵⁰⁵ This not only allowed for the monitoring of jurists' performance, encouraging further escalations of judicial brutality but also enabled the Ministry of Justice to compile and publish statistics intended to give credence to the Nazi leadership's expressed determination to eliminate both crime and the political threat posed by Communism.⁵⁰⁶

⁴⁹⁹ Marxen, K., 'Der Volksgerichtshof in Zeitgeschichtlicher Perspektive', p. 30.

⁵⁰⁰ Richter, I., *Hochverratsprozesse als Herrschaftspraxis im Nationalsozialismus*, pp. 80 - 82.

⁵⁰¹ Marxen, K., 'Der Volksgerichtshof in zeitgeschichtlicher Perspektive', p. 29.

⁵⁰² See Lauf, E., *Der Volksgerichtshof und seine Beobachter*, pp. 282 - 283; and Koch, H., *In the Name of the Volk, passim*.

⁵⁰³ Lauf, E., *Der Volksgerichtshof und seine Beobachter*, p. 283.

⁵⁰⁴ Lauf, E., *Der Volksgerichtshof und seine Beobachter*, p. 283.

⁵⁰⁵ Marxen, K., 'Der Volksgerichtshof in zeitgeschichtlicher Perspektive', p. 31.

⁵⁰⁶ Marxen, K., 'Der Volksgerichtshof in zeitgeschichtlicher Perspektive', pp. 28 - 29.

Nazi justice was intended both to punish dissenters and deter other from engaging in oppositional activity in equal measure. The deterrent function of the People's Court was most evident in its application of the death penalty. As servants of the foremost instrument of Nazi legal terror, People's Court judges were particularly zealous in their efforts to eliminate 'pests' from German society.⁵⁰⁷ The number of offences punishable by death had risen, from three in 1933 to eighteen in 1939.⁵⁰⁸ Further wartime legislation prescribed the death penalty for an ever larger number of offences, the definitions of which were intentionally vague so as to allow its greatest possible application.⁵⁰⁹ In the pre-war period, death sentences had accounted for only 5-10% of all sentences passed by the People's Court. During the war the number of capital sentences passed rose quickly and under Freisler's presidency, the serving of justice became little more than an orgy of bloody violence. Between 1942 and 1944, over 60% of the defendants who stood trial before the People's Court were sentenced to death.⁵¹⁰ In both 1943 and 1944, the number of capital sentences passed by the People's Court was considerably greater than the number of custodial tariffs. In 1944, of 3,745 defendants found guilty after trials before the People's court, an astonishing 2,022 were sentenced to death and executed. In contrast, British judges sent only eighty-four defendants to their death during the war.⁵¹¹

Public Trial and Publicity

The Nazi authorities went to considerable lengths to control the public perception of both law and terror.⁵¹² Trial before the Nazi courts remained a public experience. Although closed courts did exist in Nazi Germany for those trials which concerned the revelation of secrets of

⁵⁰⁷ Wachsmann, N., *Hitler's Prisons*, pp. 218-222.

⁵⁰⁸ The number of offences punishable by death eventually rose to forty-six. The number of capital offences cited here, includes fifteen separate provisions under the Treason Statute, Gellately, R., *Backing Hitler*, p. 86.

⁵⁰⁹ Marxen, K., 'Strafrechtliche Massnahmen zu Beginn des Dritten Reichs: Das Beispiel der Generalstaatsanwaltschaft und der Strafsenate beim Oberlandesgericht Hamm', *Zeitung für neuere Rechtsgeschichte* (1991), p. 6.

⁵¹⁰ Wachsmann, N., *Hitler's Prisons*, p. 218.

⁵¹¹ Wachsmann, N., *Hitler's Prisons*, p. 364.

⁵¹² Wachsmann, N., *Hitler's Prisons*, p. 386.

state, public trial remained an important facet of Nazi justice. It is possible, that attempts to have abolished open trials in favour of closed hearings might have met with resistance from the legal establishment and were therefore not countenanced.⁵¹³ This pretence at normality also helped to mask the escalation of violence and terror during the war. The process of public trial was intended to send a clear message to the defendant's immediate milieu and communities of potential dissenters.⁵¹⁴ The threat of legal terror was also made plain in substantial coverage of trials before the People's Court.⁵¹⁵

Those cases selected for wider publication were carefully chosen to reflect the political priorities of the regime. Initially, the trials of Communists had dominated press reports of the business of the People's Court. This later changed. In the months immediately before the outbreak of war, the trials of Communists were rarely reported for fear of undermining Nazi claims to have unified the German people.⁵¹⁶ After 1942, press reports increasingly and disproportionately focused on the cases of 'Undermining the Fighting Strength of the German Nation', a reflection of the regimes concerns as the war entered its final phase.⁵¹⁷ In the final two years of fighting in particular, when transport within the Reich had become precarious, only those cases with an obvious propaganda potential were heard before the People's Court.⁵¹⁸ The press reports of trials, particularly in the final years of the served to increase the perception of terror and certainty of punishment in the wider population.

Until the very end, trial and its public presentation remained an effective propaganda vehicle for the revelation of the threat posed to the Reich and the seriousness with which certain actions were regarded by the regime. The publication of trial details also enabled the severity of sentence to be disseminated to the wider population. In total, some 78% of all death sentences were reported by German newspapers the following day, often in lurid

⁵¹³ Richter, I., *Hochverratsprozesse als Herrschaftspraxis im Nationalsozialismus*, p. 103.

⁵¹⁴ Richter, I., *Hochverratsprozesse als Herrschaftspraxis im Nationalsozialismus*, pp. 105 - 107, & Richter, I., *Hochverratsprozesse als Herrschaftspraxis im Nationalsozialismus*, pp. 112 - 114.

⁵¹⁵ Lauf, E., Lauf, E., *Der Volksgerichtshof und seine Beobachter*, pp. 77 - 78.

⁵¹⁶ Lauf, E., *Der Volksgerichtshof und seine Beobachter*, pp. 104-105.

⁵¹⁷ Wachsmann, N., *Hitler's Prisons*, p. 386.

⁵¹⁸ Lauf, E., *Das Volksgerichtshof und seine Beobachter*, p 282.

format.⁵¹⁹ The growing brutality of justice was matched by the radicalisation of the language used to report it. Edmund Lauf notes the linguistic differences between the two following headlines, printed in the *Völkischer Beobachter* in September 1943 and January 1945 respectively 'Death sentence for treacherous defeatism' and 'Listened to enemy radio broadcasts - executed'.⁵²⁰ In the final months of the war, trial served a further purpose. The Nazi press had become subject to growing incredulity. Fanciful stories of hoped for victories, wonder weapons and the imminent defeat of allied armies, were belied by the daily reality of life in much of Germany and disbelief in the organs of Nazi propaganda was widespread. In part, the courts filled this communication vacuum. Sentence and its rumour replaced the virtual terror propagated in the Nazi press with a real and tangible terror. Whereas once a much smaller number of severe sentences had been disseminated to the wider populace through the press, the many thousands of death sentences in the final years of the war carried their own distinct message to local populations. Through the creation of a climate of fear, the reporting of sentence and execution in the press was intended to consolidate German fighting will until the very end.⁵²¹

Analytical Conclusion

The courts of Nazi Germany were considerably more than the legal desiderata of a previous age. Despite misgivings the of Nazi leaders at judicial reliability, the courts played a central role in the exercise of legal terror, contributing to a climate of menace and fear which helped stay dissent. Jurists proved willing servants of the Nazi state, keen to fulfil the demands made of them and willing to contribute to the mechanics of persecution. As we have seen, from the outset the courts of Nazi Germany played a clear and discriminatory role. Although, the courts were never the Nazis state's first weapon of choice, they were of central importance to the exercise of terror. Despite Hitler's distrust of jurists, the legal system remained crucial to the Nazi state's ability to subdue and destroy opposition.

⁵¹⁹ Lauf, E., *Das Volksgerechtshof und seine Beobachter*, p. 208.

⁵²⁰ "Todesstrafe für verrätischen Defaitismus" and "Feindnachrichten abgehört - hingerichtet" cited in Lauf, E., *Das Volksgerechtshof und seine Beobachter*, p. 207.

⁵²¹ Gellately, R., *Backing Hitler*, pp. 224 - 225.

German courts sent thousands of opposition figures to prisons, the camps and their deaths.

The very process of trial allowed for the dissemination of the clear and real prospect of terror to a wide audience, directed at both those in the immediate circle of the defendant and casual readers of the Nazi press the length and breadth of Germany. Nazi justice was swift and brutal and possessed a substantial deterrent element. Trial also legitimised further terror; it enabled machination to be revealed. It also served to remind Germans of the potential threat from supposed enemy groups and, at times, served to demonstrate the impotence of traditional justice, justifying the expansion of police powers. Conversely, public trial also acted as a sop to normality. It emphasised the Nazi commitment to law and order, preventing disquiet and almost perversely reminding Germans that they would never be subjected to the mechanisms of arbitrary power. Legal terror was a necessary corollary to police power and contributed to an overarching sense of menace, intended to distil fear and prevented much feared revolution.

Chapter Four: The Social-democratic Milieu and 'Crimes' of Dissent

At the time of Hitler's appointment to the German Chancellorship on 30th January 1933, the German Social-democratic Party was by no means a spent political force. In the general election of 7th November 1932 the SPD had polled 20.4% of the vote, second only to the NSDAP. Many Social-democrats had been loyal members of the party of the years, inheriting their political loyalties from their forefathers.⁵²² Social-democrats also drew on a proud tradition of trade unionism. The still powerful Free Trade Unions (*Freie Gewerkschaften*) could count many millions of members although their number had fallen from a high of 7.3 million members in 1919.⁵²³ The party also presided over an unparalleled network of cultural, social, educational and sporting organisations which provided Social-democrats with much needed social stimuli and political camaraderie.

During the first few months of Nazi rule the organisations and institutions of the SPD were by stages prohibited, co-opted and dismantled. Social-democrats were placed under extraordinary pressures to conform. Known activists were arrested and interned in large number and whole communities were routinely surveyed by the police. Illegal organisation became ever more precarious as the Gestapo tightened its grip on Germany's oppositional milieux. By 1941 the Social-democratic milieu existed only in the form of the covert but informal meetings of mostly staunch former comrades, who met in private homes or pubs known to be safe, to discuss the political situation in an attempt to keep alive the values of Social-democracy or find succour in the company of like-minded individuals.⁵²⁴ On occasion more radical Social-democrats attempted to found and maintain a coherent illegal party structure.⁵²⁵ However, their efforts meet with little success; the possibility for organised dissent were limited both by the effectivity of the Nazi terror apparatus and the

⁵²² Grossmann, A., 'Milieubedingungen von Verfolgung und Widerstand: Am Beispiel ausgewählter Ortsvereine der SPD' in Broszat, M., (ed.) *Bayern in der NS Zeit. Vol. V*, (Munich/ Vienna, 1984), pp. 440 - 445.

⁵²³ Kolb, E., *The Weimar Republic*, trans. Falla, P., (London, 1990), p. 14.

⁵²⁴ Mehringer, H., 'Sozialdemokratischer und sozialistischer Widerstand' in Steinbach, P., & Tüchel, T., *Widerstand gegen den Nationalsozialismus*, (Bonn, 1994), p. 129.

⁵²⁵ Mehringer, H., 'Sozialdemokratischer und sozialistischer Widerstand', pp. 131 - 141.

unwillingness of many Social-democrats to risk extreme punishment through engagement in such dangerous endeavours.

This chapter will examine the cases of two hundred and eighty-five Social-democrats prosecuted by the Düsseldorf Gestapo, the Munich Special Court and the People's Court. Through the examination of the histories of the perpetrators of 'crimes' of dissent as revealed in the three file samples, this chapter will attempt to establish the extent of the influence of the Social-democrat milieu on both the 'crime' committed and the individual. Of all Germany's social-milieu, that of the SPD was perhaps the best established. The SPD was the traditional political representative of the German working-class.⁵²⁶ The party had long dominated the political landscape of Germany's industrial centres, drawing its support from skilled, industrial workers in tenured positions.⁵²⁷ Despite a long history of political moderation, the SPD was never able to expand beyond its considerable, mostly Protestant, working-class base.⁵²⁸ The party had never succeeded in winning the support of a majority of the Catholic working-class, whose loyalties remained shaped by religious rather than class considerations.⁵²⁹ More so than any other political party, the SPD was associated with the successes and failures of the Weimar Republic. For many of its members Weimar democracy had represented a personal best of times, of growing opportunity and relative economic prosperity. However, an attachment to democracy and the social achievements of the Weimar Republic ran counter to both popular sentiment and experience. The position of both the SPD and Social-democrats in the final years of the Weimar Republic was characterised by a growing sense of alienation and helplessness which were compounded by the experiences of Nazi rule and persecution after 1933.⁵³⁰

Fear of socialism had traditionally permeated German society.⁵³¹ Many Germans held the

⁵²⁶ Mehringer, H., 'Die bayerische Sozialdemokratie bis zum Ende des NS-Regimes', in Broszat, M., (ed.) *Bayern in der NS Zeit. Vol. V*, (Munich/ Vienna 1984), p. 290.

⁵²⁷ Peukert, D., *Die Weimarer Republik*, (Frankfurt am Main, 1987), p. 154.

⁵²⁸ Evans, R., *The Coming of the Third Reich*, p. 150.

⁵²⁹ Mallmann, K., & Paul, G, *Widerstand und Verweigerung im Saarland*, p. 180

⁵³⁰ Grossmann, A., 'Milieubedingungen von Verfolgung und Widerstand', p. 438.

⁵³¹ Peukert, D., *Die weimarer Republik*, pp. 149 - 150.

SPD directly responsible for the misfortunes experienced during the fourteen years of Weimar democracy: SPD ministers had signed the widely hated Treaty of Versailles. Similarly, the economic policies implemented by the SPD dominated coalitions in the first years of the Weimar Republic had contributed to the hyperinflation which brought misery to so many Germans in 1922 and 1923. Employers and business feared the social agenda pursued by the SPD parliamentary faction and were increasingly suspicious of the frequently vitriolic, Marxist language used to express mostly moderate aims.⁵³² Craft-workers and small-traders, who, badly affected by both hyperinflation and German economic collapse, harked back to a golden era of pre-war prosperity and blamed the SPD as the most visible representative of Weimar democracy for their lack of success and their difficulties in dealing with the challenges of economic modernisation.⁵³³

In response to the social isolation of its followers, the SPD had developed a comprehensive network of social and cultural organisations, parallel to those provided by the state, to cater to the needs of its supporters.⁵³⁴ Despite the progressive social policies introduced by successive Weimar governments and the appointment of SPD supporters to leading positions in the government, the civil service, judiciary and other professions once closed to them, the SPD and its members were never wholly incorporated into mainstream German society.⁵³⁵ The prejudices directed at Social-democrats in positions of power and authority were reflected in the more mundane, everyday experiences of Social-democrats in all areas of civil life.⁵³⁶ Consequently, the libraries, schools, youth corps, choral associations and sports clubs established by the SPD the length and breadth of Germany proved tremendously popular with the party faithful and their families.⁵³⁷ These formal organisations were complemented by a network of pubs and social clubs. It was possible for Social-democrats to live entirely within a specifically Social-democratic milieu, in which a common

⁵³² Fischer, K., *Nazi Germany*, pp. 47 - 48.

⁵³³ Noakes, J., & Pridham, G., *Nazism 1919-1945: Vol. 1. The Rise to Power 1919-1934*, (Exeter, 1991), p. 81.

⁵³⁴ Grossmann, A., 'Milieubedingungen von Verfolgung und Widerstand', pp. 436 - 437.

⁵³⁵ Peukert, D., *Die Weimarer Republik*, p. 152.

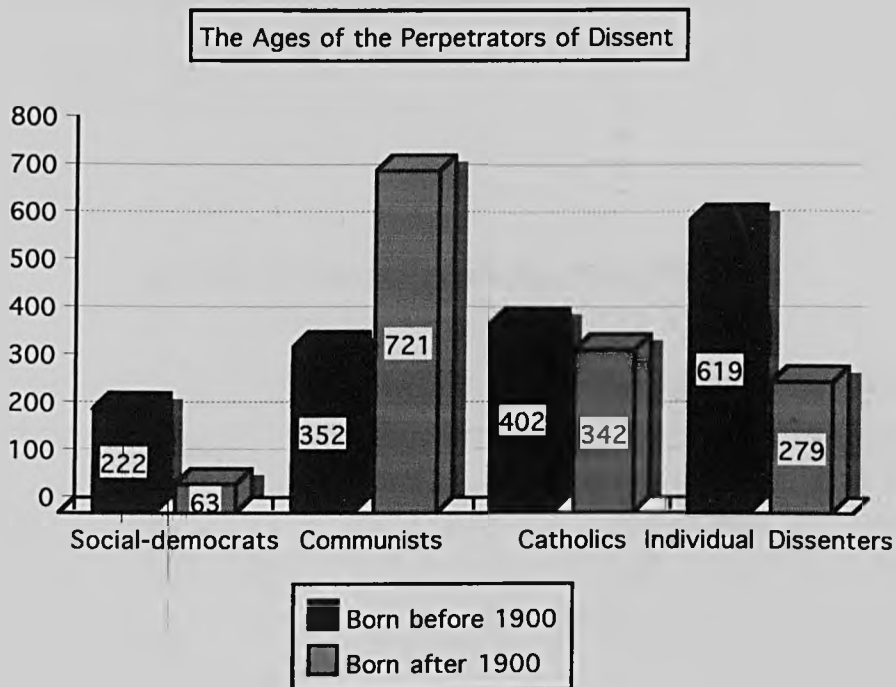
⁵³⁶ Peukert, D., *Die Weimarer Republik*, p. 155.

⁵³⁷ Mallmann, K., & Paul G., *Milieus und Widerstand*, p. 187.

ideology and shared values were reinforced in the workplace, in the home and at leisure.⁵³⁸

The SPD milieu was characterised by the stability of the party's core-membership. Its members were mostly older, skilled workers and they comprise two hundred and seven (72.6%) of the two hundred and eighty-five Social-democrats included in this sample. The dominance of this particular group within the party ranks, as much as their experiences and values, shaped the particularly forms of dissent exhibited by SPD supporters between 1941 and 1945 examined in the course of this chapter. Whereas, the Communist milieu was defined by the radicalism of its young members and the experience of unemployment and poverty, only thirty-six (12.6%) of the two hundred and eighty-five Social-democrats included in the sample had been affected by unemployment during the Weimar Republic. Men born before the turn of the century account for two hundred and nine (73.3%) of those

Figure 5



⁵³⁸ Walter, F., & Matthiesen, H., 'Milieu in der modernen deutschen Gesellschaftsgeschichte: Ergebnisse und Perspektive der Forschung', p. 47.

surveyed, compared to only fifty-nine (20.7%) Social-democrat men born after 1900 (see figure 5, p. 150). In contrast, the role of women was more marginal.⁵³⁹ The survey includes only seventeen (5.9%) cases of female Social-democrats tried for the perpetration of acts of dissent (see figure 8, p. 236). The SPD could also count on the support of a small, yet significant, corpus of the urban, liberal, middle-class vote,⁵⁴⁰ and members of this group account for twenty-eight (10.1%) of the Social-democrats included in the sample (see table 4, p. 93). Although only thirty-eight (13.3%) Social-democrats had received any form of higher education, one hundred and eighty-eight (65.9%) had received some form of vocational training and had thus been better equipped to deal with the turbulent economic conditions of the Weimar Republic than their Communist compatriots.

Despite the relative homogeneity of the SPD milieu, the experience of Weimar democracy was far from uniform. Extreme poverty had also affected Social-democrats in forty-eight cases, they were mostly older men, born before 1895 and belonged to the small number of Social-democrats who had not received vocational training after the completion of their elementary education. However, they remained loyal to the SPD. Possibly, because of

Table 5

Levels of Education among Dissenters

N.B. Percentages refer to each individual milieu

	Elementary Education	Vocational Training	Abitur	University Degree
Social-democrats	278 (97.5%)	207 (72.6%)	33 (11.6%)	15 (5.2%)
Communists	1013 (94.4%)	193 (17.9%)	24 (2.2%)	4 (0.3%)
Catholics	726 (97.5%)	217 (28.7)	152 (20.4%)	112 (15%)
Individuals	843 (93.8%)	406 (45.2%)	31 (3.4%)	28 (3.1%)

⁵³⁹ Stephenson, J., *Women in Nazi Germany*, pp. 109 - 112.

⁵⁴⁰ Mallmann, K., & Paul, G., *Milieus und Widerstand*, p. 183.

their lengthy association with the party, they had been unable to transfer their political allegiance to the more radical KPD. Manifestations of social trauma other than unemployment also affected Social-democrats (see table 10, p. 196). Thirty-seven (12.9%) Social-democrats included in the survey were recorded as having a history of alcoholism. In thirty-three (40%) (16.8%) instances. Those Social-democrats who had been unable to find work between of eighty-two cases of Malice, the individual's consumption of alcohol had influenced the voicing of critical anti-Nazi sentiment (see table 7, p. 167). Evidence of drunkenness is also to be found in sixteen (36%) of the cases of Defeatism tried before the People's Court. Sixty-four (22.4%) Social-democrats had also been convicted previously (see table 1, p. 50). In forty-one (64%) cases this was for the perpetration of a political, rather than a criminal act. Although these rates of alcoholism and previous conviction might appear high, they are markedly lower than those recorded in the Communist sample (see next chapter).

Our survey reveals the extents of the extraordinary loyalties demonstrated by some Social-democrats to their milieu. Two hundred and thirty-one (81.1%) Social-democrats included in the survey had been members, rather than supporters, of the SPD. More significantly, two hundred and eleven (74%) Social-democrats surveyed had been a member of the party for more than five years. One hundred and sixty-eight (58.9%) Social-democrats had been members of the SPD for at least ten years. The loyalty of Social-democrats to their milieu was manifested not only in the active participation in the politics of Social-democracy but was also revealed in the high level of SPD affiliated trade union membership. One hundred and seventy-three (60.1%) Social Democrats had been members of the Free Trade Unions. Thirty-two (18.5%) Social-democrats had held positions of responsibility within their respective trade union.

The high level of political participation recorded in the Social-democrat sample was matched by a similar level of social engagement. In the context of the relative isolation experienced by many Social-democrats during the Weimar Republic, it is unsurprising that many of those surveyed had turned to the cultural and social organisation affiliated to the SPD for

social stimuli and cultural nourishment. Two hundred and twenty-seven (79.6%) of the Social-democrats included in the survey had regularly taken part in communal social or cultural activities organised either by the SPD or its affiliated organisation. One hundred and twenty-seven (35.1%) had been members of sporting associations affiliated to the SPD. Twenty-nine (10.2%) had been members of the choral associations funded by the party. A further thirty-three (11.6%) had received some form of supplementary education in one of the educational institutions established locally by the SPD for the benefit and improvement of workers. Perhaps most tellingly, of those included in the sample, one hundred and ninety-six (68.8%) Social-democrats had regularly met with political colleagues and comrades in the many pubs and cafes affiliated to the party.

The Social-democrat milieu could provide a total experience, enveloping party supporters in a network of formal and informal institutions and organisations in which the values and traditions of Social-democracy were propounded and reinforced. In eighty-six (30.1%) cases included in this sample the influence of the Social-democrat milieu was profound, providing a complete existence for the individual. In such cases, the relative

Table 6

Milieu Participation

N.B. Percentages refer to each Individual milieu

	Party Office Holders	Party Members	Trade Union Members	Participation in Milieu Social Organisations
Social-democrats	58 (20.3%)	231 (81.1%)	173 (60.1%)	227 (74%)
Communists	212 (19.7%)	727 (67.8%)	143 (13.3%)	623 (58.1%)
Catholics	5 (0.6%)	41 (5.5%)	162 (21.7%)	535 (71.9%)
Individuals	—	9 (1%)	79 (8.8%)	42 (4.7%)

isolation from the mainstream of German society endured during the Weimar Republic was compounded by the experience of Nazi rule. For many, Nazi rule represented a personal worst of times. The political loyalties of Social-democrats jeopardised their employment prospects after 1933. Twenty-five (8.8%) of those surveyed who had not found work before 1933 did not find permanent employment until after 1937 (see table 9, p. 189). In total, one hundred and twenty-two (42.3%) of the surveyed Social-democrats were either dismissed from their employment (fifty-nine instances - 20.1%) or experienced career stagnation or demotion (sixty-three instances - 22.1%). There should be little doubt that the prejudices suffered by Social-democrats in the workplace fostered considerable resentment towards Nazism and reinforced the antipathies of a community already regarded with suspicion by the Nazi regime.

Despite the relative strength and stability of the party's core-membership, German Social-democracy had demonstrated an inability to replenish its support.⁵⁴¹ Although the SPD experienced a brief surge in support in the 1928 election at a point at which Weimar democracy appeared to have entered a period of stability and overcome many of the economic problems which had bedevilled its infancy, the electoral history of the party was characterised by a gradual decline in its share of the popular vote, from 37% in the first free elections in January 1918 to 17.8% in the elections in March 1933. Many younger Social-democrats had grown disillusioned with the perceived inertia of the party leadership in the face of the political challenges of the final years of the Weimar Republic.⁵⁴² Brutalised by the experiences of increasing unemployment, political violence and facing a future of great uncertainty, younger supporters increasingly transferred their political allegiances to either the KPD or the NSDAP, both of which offered visions of the future untarnished by the painful association with Weimar democracy.⁵⁴³ The policies of strict legality and absolute support for the Republic pursued by the SPD leadership often seemed to be to the detriment of its own supporters.

⁵⁴¹ Peukert, D., *Die Weimarer Republik*, p. 156.

⁵⁴² Kolb, E., *The Weimar Republic*, p. 105.

⁵⁴³ Evans, R., *The Coming of the Third Reich*, p. 90.

The attitudes, values and traditions of the Social-democrat milieu left a clearly discernible imprint on many of these included in this sample. The party leadership's strict adherence to the law in the final years of the Weimar Republic and the memories of Bismarckian persecution of the 1880s informed the shape of the 'crimes' of dissent perpetrated by Social-democrats.⁵⁴⁴ In comparison to the more radical reactions of many Communists to Nazi rule, the responses of many Social-democrats to the challenges of National Socialism were overwhelmingly passive. As the one hundred and fifty-seven (55.1%) cases of the informal association recorded in this sample demonstrate, Social-democrats did not seek to directly confront Nazism but to maintain the values of their milieu (see table 11, p. 200). They chose instead to retreat into a private sphere, maintaining links with like-minded colleagues and friends with whom they shared a camaraderie established through years of shared social and political experience.⁵⁴⁵ Only in twenty-nine (10.2%) cases do the files reveal evidence of actual political organisation and the determined pursuit of political aims. The demography of the SPD membership reinforced this trend; older men with little experience of political radicalism were unwilling to take unnecessary risk. Tellingly, two hundred and three (71.2%) of the Social-democrats included in the survey were married and had little to gain and a great deal to lose through a more active engagement in underground political work.

The initial experience of Nazi persecution also informed later manifestations of Social-democrat dissent. The SPD leadership had not only underestimated Hitler's considerable political acumen but also the violence with which the Hitler regime consolidated its hold on power.⁵⁴⁶ Hopes that the Nazi government would be little more than a short lived aberration were quickly dashed. Moreover, the SPD was unprepared for the speed and thoroughness with which its organisations were dismantled. The party's paramilitary formation, the *Reichsbanner*, was forced into dissolution during the April and May of 1933. The Free Trade Union, the world's largest independent trade union organisation was dissolved on the 2nd May 1933 the day after its members had taken part in the massive

⁵⁴⁴ Mehringer, H., 'Die bayerische Sozialdemokratie bis zum Ende des NS-Regimes', p. 338

⁵⁴⁵ Mallmann, K., & Paul, G., *Milieus und Widerstand*, p. 240.

⁵⁴⁶ Evans, R., *The Coming of the Third Reich*, pp. 355 - 361.

International Labour Day celebrations organised by Goebbels. The SPD itself ceased to exist on 22nd June 1933, its many social and cultural organisations affiliated to the party were either co-opted in to similar Nazi associations, taken over by the state or forced to close. In a matter of months the proud institutions of the Social-democrat milieu had effectively ceased to exist.

Social-democrats were put under great pressure to conform by the agencies of Nazi terror. Party functionaries were arrested in large numbers by the police. Others were subjected to chicanery at the hands of the SA.⁵⁴⁷ As we noted in chapters one and two, the Gestapo made use of the expertise and the knowledge accumulated by the political police forces of the Weimar Republic on the political left. Many party members, particularly those with histories of political activism, were already known to the police and were routinely placed under surveillance, limiting their ability to machinate against the Nazi state.⁵⁴⁸ Working-class areas and former SPD strongholds were routinely subjected to violent police searches intended as much to intimidate as flush out illegal opposition cells.⁵⁴⁹ Denuded of structures around which members might plan and organise, German Social-democracy was forced underground, kept alive through the covert but ultimately informal meetings of former comrades.⁵⁵⁰

Attempts were made by some Social-democrats to mould an illegal party structure both within and without Germany.⁵⁵¹ Conferences of SPD delegates took place in both in the Saar and in Luxembourg in 1934 to try and formulate a specific party programme and plan of action.⁵⁵² Illegal meetings of party functionaries from across Germany were also held in Berlin, Hamburg, the cities of the Ruhr, Munich and Mannheim.⁵⁵³ The organisation of

⁵⁴⁷ Kershaw, I., *Hitler 1889-1936: Hubris*, p. 460.

⁵⁴⁸ Mallmann, K., 'Die V-Leute der Gestapo: Umriss einer kollektiven Biographie' in Mallmann, K., & Paul, G., (eds.) *Die Gestapo: Mythos und Realität*, pp. 268 - 269.

⁵⁴⁹ Schmiechen-Ackermann, D., *Nationalsozialismus und Arbeitermilieus*, pp. 403 - 428.

⁵⁵⁰ Mehringer, H., 'Sozialdemokratischer und sozialistischer Widerstand', pp. 130 - 131.

⁵⁵¹ Hill, L., 'A New History of Resistance to Hitler', in *CEH*, 14 (1981), p. 377.

⁵⁵² Baum, G., 'Die Sozialdemokraten' in Matthias, E., & Weber, H., (eds.) *Widerstand gegen den Nationalsozialisten in Mannheim*, (Mannheim, 1984), pp. 162 - 163.

⁵⁵³ Baum, G., 'Die Sozialdemokraten', pp. 184 - 185.

meetings proved both dangerous, resulting in large numbers of arrests in 1934, 1935 and 1936, and unproductive, leading to *impasse* between the different party factions. Militant Social-democrats demanded an active and more radical opposition to the Nazi regime, seeking to explore possible collaboration with the KPD in a united People's Front.⁵⁵⁴ Such calls found little favour with the SPD leadership in exile in Prague, which now called itself SOPADE, who remained deeply suspicious of the KPD - a consequence of the bitter rivalry between the two parties which had split the political left so destructively during the Weimar Republic (see pp. 188 - 189). Leading members of the SPD in exile in Prague also realised that the overthrow of the Nazi regime would only be achieved through an improbable collaboration with the Wehrmacht or invasion from without.

The bruising experiences of the first two years of Nazi rule had left the SPD wary of unnecessarily exposing its supporters to danger and risk.⁵⁵⁵ The network of couriers which had been established throughout Germany to distribute party literature was gradually wound down.⁵⁵⁶ By mid-1935 the supply of literature into the Reich from the party headquarters in Prague had slowed tremendously, effectively severing the only link between the leadership in exile and the party faithful. Instead, the party leadership concentrated on information gathering on the political situation in the Reich and publishing its findings in the now famous '*Deutschland Berichte*'. Inevitably, greater emphasis was placed by Social-democrats on the maintenance of covert, informal party bonds which would not unnecessarily endanger party members.

The Social-democrat milieu so much as it still existed in the mid 1930s did not change substantially during the war. The circumstances of war had not weakened the Gestapo's hold on German society and the increasingly severe penalties associated with dissent also helped to secure the docility of many Social-democrats. Moreover, in a society characterised not only by the atomisation of civil life but also by the extraordinary demands

of loyalty made by the Nazi regime, even the informal association of party members was

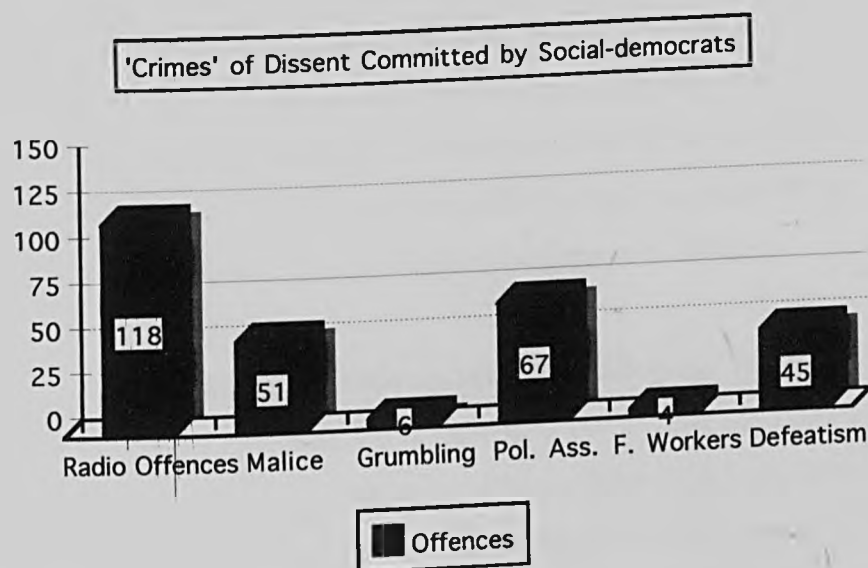
⁵⁵⁴ Mehringer, H., 'Sozialdemokratischer und sozialistischer Widerstand', pp. 134 - 135.

⁵⁴³ Mehringer, H., 'Sozialdemokratischer und sozialistischer Widerstand', pp. 128 - 129.

⁵⁵⁶ Mehringer, H., 'Sozialdemokratischer und sozialistischer Widerstand', p. 130.

both difficult and dangerous. Allied bombing raids devastated whole communities; those whose properties had escaped unscathed were sometimes forced to share their homes with less fortunate neighbours.⁵⁵⁷ The private world which had once provided a haven for former comrades became ever more public and volatile. During the war foreign radio broadcasts took on a new significance and, indeed, characterise many of the acts of dissent to be examined in the course of this chapter. War brought with it the possibility of German defeat and potential hope for the future. The German language broadcasts of the BBC in particular became a focus for groups of Social-democrats, who sought not only trustworthy reports from the fighting fronts but also solace in the growing certainty of Allied victory.

Figure 6



N.B.: 1) Pol. Ass. = Political association; F. Workers = Relationships with Foreign Workers

2) Many Social-democrats had been members of passive political associations but were convicted for contravention of the Radio Crimes or Malice Statute.

⁵⁵⁷ Noakes, J., (ed.) *Nazism 1919-1945*. Vol. 4, pp. 560 - 561.

Turning away from Social-democracy

Only a small fraction of the Social-democrats who voted for the party in the March 1933 elections later committed 'crimes' of dissent. The reticence of Social-democrats to act in defiance of the Nazi regime can only in part be explained through the success of Nazi legal and extra-legal terror. Instead, we must look to a host of factors which affected the Social-democrat, Communist and Catholic milieu in similar measure. The early successes of Nazism robbed both the party in exile and illegal SPD groups in Germany of a potential audience. The return to full-employment and subsequent wage inflation denied German Social-democracy a cause around which its supporters could naturally rally.⁵⁵⁸ Nazi social and employment policies also sapped the Social-democratic cause of much potential support.⁵⁵⁹ Nazi organisations like the KdF provided workers with entertainments they had rarely enjoyed before.⁵⁶⁰ Similarly, attempts to 'beautify' the workplace brought improvements to factories and industrial facilities across the Reich, for which workers had long campaigned.⁵⁶¹ Mines were fitted with showers and works' canteens improved. Within these changing parameters, it was difficult for the SPD in exile to establish an oppositional platform to Nazism that was anything other than ideological and abstract.

Nazism also provided alternatives to milieu and communal bonds.⁵⁶² Whereas once SPD organisations had dominated the social life of Germany's working-class communities, these were quickly replaced with Nazi associations, which provided an equally comprehensive and embracing network of sports clubs, choral associations and other forms of communal organisation open to all Germans (see table 3, p. 62). In these circumstances the majority of former SPD supporters and members were able to turn away from their former political beliefs and find a new social, and then, sometimes, comfortable home in organisations

⁵⁵⁸ Mehringer, H., 'Sozialdemokratischer und sozialistischer Widerstand', p. 128.

⁵⁵⁹ Hill, L., 'A New History of Resistance to Hitler', p. 376.

⁵⁶⁰ Schoenbaum, D., *Hitler's Social Revolution*, pp. 104 - 107.

⁵⁶¹ Schoenbaum, D., *Hitler's Social Revolution*, p. 105.

⁵⁶² Mallmann, K., & Paul, G., *Herrschaft und Alltag: Ein Industrieviertel im Dritten Reich. Widerstand und Verweigerung im Saarland 1935-1945. Band II*, (Bonn, 1991), p. 145.

benefiting from Nazi largesse.⁵⁶³ Harmut Mehringer has pointed to the centrality of working-class *social*, rather than *political*, cohesion, convincingly arguing that the German working-class had been bound by essentially social-bonds which allowed the change in political affiliation.⁵⁶⁴ Although Social-democrat cultural and social institutions had engendered a much needed sense of communal solidarity in the face of considerable social and political prejudice, this desire for a form of class solidarity was partly satiated by demands for national solidarity.⁵⁶⁵ Indeed, the meritocratic ideals espoused by members of the Nazi leadership and the new possibilities for promotion and improvement created by full employment and the preparations for war further diluted the attraction of class based expressions of social cohesion.⁵⁶⁶

The war radically changed the working-class milieu and made new and difficult demands on the loyalties of former party members and supporters.⁵⁶⁷ The lure of patriotism, the need to fight for national survival and, in the last years of the war, to defend the Reich from invasion further weakened the appeal of potential Social-democrat opposition. The conditions of war made the organisation of covert groups considerably more difficult: conscription; the gradual, yet consistent, increase in working hours necessary to maintain armaments production; the growing absence of men of fighting age; and the arrests of known party functionaries by the Gestapo; immediately before the outbreak of war, in the weeks before the invasion of the Soviet union and in the aftermath of the attempted assassination of Hitler on 20th July 1944, all prevented the coalescence of underground oppositional structures.

The war also caused public attitudes to harden; releasing a plethora of different and often contradictory emotions which unsettled once cohesive working class communities. A sense of patriotism and duty, strengthened by the war, compelled some Germans to denounce

⁵⁶³ Schmiechen-Ackermann, D., 'Sozialistische Milieugruppen nach 1933. Strategien der Anpassung und der Verweigerung am Beispiel der Arbeitersportler und Arbeitersänger' in Schmiechen-Ackermann, D., (ed.) *Anpassung, Verweigerung, Widerstand*, p. 124.

⁵⁶⁴ Mehringer, H., 'Die bayerische Sozialdemokratie bis zum Ende des NS regimes', pp. 418 - 419.

⁵⁶⁵ Schmiechen-Ackermann, D., *Nationalsozialismus und Arbeitermilieus*, pp. 713 - 714.

⁵⁶⁶ Schoenbaum, D., *Hitler's Social Revolution*, pp. 104 - 112.

⁵⁶⁷ Mehringer, H., 'Die bayerische SPD bis zum Ende des NS Regimes', p. 429.

their compatriots for remarks which they might once have tolerated or ignored.⁵⁶⁸ What might once have been regarded as justifiable frustration with aspects of the policies of the Nazi regime, became treason. The atomisation of society and the weakening of community bonds was accelerated through the pressures of war felt by ordinary Germans. The war also brought to the fore other emotions, both nasty and pernicious. Few Germans were left unaffected by the war. Many Germans were upset by the perceived advantages and privileges of others.⁵⁶⁹ These feelings were exacerbated by the relentless bombing raids carried out by the RAF and the American Air Force, which physically devastated communities. Mounting German casualties compounded anger at those who were not compelled under law to fight: the old, the infirm and those whose skills were necessary to the war effort. In these circumstances, known former SPD supporters, particularly those who had given vocal expression to their frustrations and antipathy towards Nazism, became clear targets for acts of petty revenge and retaliation. That many Social-democrats had escaped conscription demands because of either their age or their perceived importance to the key industries in which they worked, only fuelled popular resentment and the possibility of police intervention. Communities which had once offered a modicum of security, became more dangerous to those who choose to express opinions contrary to those peddled by the Nazi party and its institutions.

Social-democracy and the Düsseldorf Gestapo

It is the Düsseldorf Gestapo sample which provides us with greatest breadth of Social-democrat 'crime' (see figure 2, p. 88). It contains one hundred and twenty-one cases of Social-democrat dissent. Only in eleven (9.1%) cases could the 'offence' itself be considered serious and manifestations of organised, political activity are restricted to this number. The majority of cases concerned seemingly trivial infringements of the Malice statute (thirty-nine cases - 32.2%), Radio offences (twenty-seven cases - 22.3%), and accusations of political association (forty-one cases - 33.9%), or a mixture of the three (see

⁵⁶⁸ Johnson, E., *The Nazi Terror*, p. 369.

⁵⁶⁹ Gellately, R., *The Gestapo and German Society*, pp. 140 - 145.

tables 8, p. 176., 11, p. 200., and, 12, p. 216). Many Social-democrats experienced considerable personal misfortune under Nazism and in this respect the case of Hermann Schlünkes is instructive.⁵⁷⁰ His history as recorded in his Gestapo file is similar to that of many Social-democrats and matches the profile of the archetypal SPD member outlined earlier. Schlünkes was born on the 27th June 1882 to a working-class family. He was old enough to have clear familial memories of the Bismarckian persecution of the SPD. After finishing school at the age of fourteen, he had been apprenticed as a dyer at a Krefeld textile factory and worked for the same firm until he was dismissed from his position in 1933 in order to make room for an unemployed Nazi loyalist. The accusation of unpatriotic disposition which had justified his dismissal was unfounded. He had gladly volunteered for active service in 1914 and served until the armistice in November 1918. His only respite from front-line service had come as the result of an injury sustained in 1916.

Schlünkes had been brought up in a specifically working-class environment. He was one of one hundred and thirty-three (46.7%) Social-democrats included in the survey who did not leave the towns in which they had been born. In 1908 he had married Maria Klönder, also of Krefeld, and they had two children together. Schlünkes joined the SPD in 1920 and remained a member of the party until its dissolution on 22nd June 1933. In the same year he also joined the German Textile Workers Union,⁵⁷¹ eventually becoming a shop steward. Disheartened by the rise of Nazism and the loss of his livelihood, Schlünkes had retreated into a private world. Only in 1936 did he find new employment as a salesman with the Krefeld firm, REW. He dutifully joined the DAF later that year. In September 1942 Schlünkes was denounced to the Gestapo by the wife of a local funeral parlour director for allegedly making anti-Hitlerian remarks whilst collecting the coffin for his recently deceased wife. He was alleged to have claimed that 'there would be no peace with Hitler' and that the whole world stood against Nazism but not the Germans.⁵⁷² Further investigation revealed that Schlünkes had frequently exhibited nonconformist behaviour; his comments were not the sole consequence of the distress he felt at the loss of his spouse. Previously, he had

⁵⁷⁰ HStA D: Gestapo 44465

⁵⁷¹ *Textilarbeiterverein*

⁵⁷² 'Mit dem Hitler gibts kein Frieden' and 'Die ganze Welt steht gegen uns.'

refused to give the Hitler greeting and more importantly, he had maintained frequent contact with former union and party colleagues.

A more clearly political sentiment was expressed in nineteen (48.8%) of the thirty-nine cases of Malice perpetrated by Social-democrats and prosecuted by the Düsseldorf Gestapo (see also table 12, p. 216). Individuals had either advocated an agenda different to that of Nazism (eleven cases - 57.9%) or had declared their support for Social-democracy (eight cases - 42.1%). In twelve of the cases thus prosecuted, the opinions voiced appear also to have been informed by local circumstances: reductions in rations (five instances) or Allied bombing raids (seven instances). Heinrich Stammer was arrested and charged with Malice in June 1942.⁵⁷³ Stammer was born in Düsseldorf in 1883 and with the exception of three years of military service between 1914 and 1917 never left the city of his birth. He had joined the SPD before the outbreak of the First World War and had worked as a treasurer for the local branch of the party. Amidst the turmoil of the foundation of the Weimar Republic and consequent feeling of disappointment common among left-wing sympathisers, Stammer had given up his membership of the SPD and joined the KPD in 1918. However, in 1924, he, tired of the increasingly radical policies advocated by the KPD leadership, rejoined the SPD and remained a member until its dissolution.

Stammer's position in life worsened considerably after 1933 and was characterised by sporadic and poorly paid employment. He only found permanent employment as a turner in 1939, when the labour shortage effecting German industry had become acute. Although the Gestapo investigation into Stammer had failed to uncover actual evidence of political activity, he was known to have remained in regular contact with other Social-democrats. This close association raises the possibility that the opinions for which Stammer was arrested, were voiced and shared by others in his social-circle. Stammer had been arrested and imprisoned in 1937 for making defamatory remarks about the regime. In 1938, shortly after his release from a concentration camp he was re-arrested for allegedly producing a knife in a

⁵⁷³ HStA D: Gestapo 44749

public space and declaring that 'this is for that poof Adolf Hitler'.⁵⁷⁴ In June 1941, he declared on the streets whilst drunk that he was a 'Marxist'. Implicit in his remarks, was a deep-seated frustration with the regime and its policies, born as much of his own exclusion from opportunity and success as the longevity of the values and ideals of his milieu.

Accusations of informal, political association, were often brought with charges of other political 'offences'. Thirty-three (80.5%) of the forty-one Düsseldorf Gestapo files pertaining to 'offences' of Social-democrat political association also concerned accusations of further wrongdoing. In thirty-two (74.4%) cases there is clear evidence of the political, rather than social, basis to the circle of Social-democrats concerned (see table 11, p. 200). In twenty-six (60.5%) such cases individuals had engaged in political discussions with former comrades. In fifteen (34.9%) cases the charges also concerned the acquisition of oppositional literature. The case of Adam Dienst is revealing of the ultimately political nature of many of the informal associations of Social-democrats.⁵⁷⁵ Adam Dienst was born on 28th January 1891 in the village of Eddersheim near Wiesbaden. No details are recorded in his file about his parentage other than that he was the youngest of eleven children. At an unspecified point in his childhood, the family moved from Wiesbaden to Duisburg. Dienst had received no more than an elementary education, As a fourteen year old he was apprenticed as a ship's pilot on the freighters which plied the River Rhine. He began his working life as a ship's boy, eventually making ship's pilot for the first time in 1919. During the First World War, Dienst had served as a non-commissioned officer in the Navy. His long association with the SPD began in 1919 after his demobilisation in 1919. In 1920 Dienst became a member of the party and remained so until its prohibition. He was also a member of the International Transport Workers Federation (ITF)⁵⁷⁶ and the Inland Sailors' Union⁵⁷⁷ and worked in Duisburg as both a union treasurer and steward.

After the Nazi take-over, Dienst remained in contact with Party and union colleagues,

⁵⁷⁴ 'Dieser ist für den Schwulen Hitler.'

⁵⁷⁵ HStA D: Gestapo 67300

⁵⁷⁶ *Internationale Transportarbeiter Föderation*

⁵⁷⁷ *Binnenschifferverein*

eventually arousing Gestapo suspicions. However, there is no evidence in his file that he was placed under surveillance by the Gestapo, despite his considerable earlier political engagement. On 10th November 1937 he was arrested by the Gestapo and charged with Conspiracy to Commit Treason, accused of smuggling opposition literature into the Reich. His membership of the ITF only came to light during subsequent police interrogations. He was eventually sentenced by the People's Court to two and half years, imprisonment in 1938. Dienst was released from custody in late 1941 and immediately resumed contact with his former party and union colleagues. Whether the meetings in which he participated had an explicitly political dimension is unclear, but all such associations under Nazi rule acquired a political colouring. Certainly, his behaviour was deemed suspicious enough to warrant his re-arrest by the Gestapo in the Spring of 1943. He was also accused of developing inappropriate friendships with foreign workers, pointing to a rejection of aspects of racial ideology. His case was passed on to Higher State Court in Hamm but the verdict was not recorded in the file.

The *political* commitment demonstrated by Dienst is far from unique and is evident in the cases of one hundred and eighty-seven (80.1%) of the two hundred and eighty-five cases of SPD members included in the sample. The time spent by many Social-democrats in a specifically SPD circumstance, in which the values and ideals of the Social-democrat milieu were constantly reinforced, was considerable (see table 6, p. 153). Brought up in isolation from mainstream German society, the bonds fostered between Social-democrats were difficult to break as the many cases of political association prove. The risks taken by Social-democrats to maintain contacts with former political colleagues are indicative of the values placed, not only on friendship, but also on the maintenance of a political culture. Josef Römer was arrested by the Gestapo in Düsseldorf in 1943.⁵⁷⁸ He was accused of taking part in regular, so-called 'Sunday meetings' of known SPD men and Communists. Additionally, Römer was charged with listening to BBC broadcasts at a close associate's home known only in the file as 'Max'.

⁵⁷⁸ HStA D: Gestapo 34960

Römer had been born the third son of an agricultural labourer on 3rd November 1895. He had received little more than a basic education and had been apprenticed as a mason after leaving school at fourteen. Römer had moved to Düsseldorf from his birth place of Strohm near Trier, in 1928. Although he never became a member of the SPD he had been a lifelong supporter of the party and was closely associated with other members of the SPD. Those Social-democrats with whom he was arrested were residents of Düsseldorf and lived in close proximity to Römer on Düsseldorf's Kirchstraße. Römer had worked as a mason all his life, with the exception of three years spent on active service during the First World War as an infantry man on the western Front. Like many former SPD supporters, Römer had felt compelled to demonstrate a superficial loyalty to Nazism and had become a member of the NSV and the DAF (see table 3, p. 62). However, his membership of Nazi associations was little more than a facade. Römer remained firmly attached to the political values of Düsseldorf's SPD milieu, maintaining friendships and associations forged years before in the sporting associations of the local SPD of which he had been a member since 1928 and of a local construction firm, Gunst, for which he had always worked.

Although unemployment during the Weimar Republic had not characterised the experience of Social-democrats to the extent that it had the supporters of the KPD, it had affected thirty-six of the Social-democrats surveyed. Moreover, as we noted earlier, fifty-nine Social-democrats had been dismissed from positions of employment in 1933 to make way for unemployed Nazi loyalists. Twenty-five of those surveyed who had not found work before 1933 did not find permanent employment until after 1937. The prejudices suffered by Social-democrats in the workplace compounded the resentments felt by many Social-democrats towards Nazism. Alfred Weissbeck was one of three younger Social-democrats, unfortunate not to have found work before 1933.⁵⁷⁹ Born in Barmen in 1914, his family were known to have been enthusiastic supporters of the SPD. Weissbeck had attended elementary school and been apprenticed as a shop-worker immediately after the completion of his compulsory schooling.

⁵⁷⁹ HStA D: Gestapo 74161

Weissbeck experienced great difficulty finding work. After 1933, widespread knowledge of his political views deterred many employers from offering the young man work, allowing the Gestapo to callously label him 'work-shy'. Eventually, Weissbeck was able to find occasional employment with the *Barmen Mittagszeitung*, selling newspapers to passers-by on the streets. In contrast to those cases already examined, there is no evidence that Weissbeck maintained any sort of political association after the Nazi take-over. Rather, his story is one of loneliness and pent-up frustration at his lack of success. In October 1941, Weissbeck was arrested by the Düsseldorf Gestapo. He had become involved in an argument with a customer and had declared that Wehrmacht officers on the Eastern Front drove their troops forward with machine gunfire. He was tried by the Düsseldorf Special Court and sentenced to two years and six months imprisonment. This was not Weissbeck's first confrontation with the authorities. He had already been convicted twice under the Malice Statute for defaming the Reich government and the SA in 1934 and 1937. The file also records that Weissbeck had frequently been reported to the Gestapo by the representatives of various Nazi party organisations for opinions expressed on his doorstep when NSDAP officials had collected for the different Nazi charitable organisations particularly, the NSV.

Table 7

Alcohol and Dissent

N.B. Percentages refer to each individual milieu

	Perpetrator Alcoholic	'Crime' Committed Whilst Drunk	'Crime' Committed in Pub
Social-democrats	37 (12.9%)	26 (9.1%)	34 (11.9%)
Communists	183 (17.1%)	52 (4.8%)	44 (4.1%)
Catholics	29 (3.8%)	16 (2.1%)	19 (2.5%)
Individuals	73 (8.1%)	34 (3.7%)	49 (5.5%)

The consumption of alcohol also played a part in the articulation of anti-Nazi sentiment (see table 7, p. 167). Eighteen Social-democrats arrested by the Düsseldorf Gestapo had been drunk at the time the offence had been committed. In total, thirty-four cases of Malice had been perpetrated either in a pub or when the individual concerned was drunk. However, it would be misleading to suggest that such cases concerned the banal complaints of drunks. Alcohol certainly helped to numb the drudgery of daily life for those stuck at the bottom the Nazi social hierarchy and although drunkenness might have caused the individual to behave in an unduly careless manner, the sentiments expressed and their content and their purpose was born of a specific socio-political milieu. The case of Herbert Esser, a weaver from Mönchen-Gladbach, is similar to many of those who had disparaged the regime when drunk.⁵⁸⁰ Esser was born in 1898 and raised in the small town of Jüchen. At fourteen he had been sent to work in a spinning mill in nearby Mönchen-Gladbach but sustained a serious injury within the first six months of his employment. Despite this handicap, Esser managed to continue working until 1933, although at an increasingly reduced rate. His inability to work fully and earn enough to provide for his family had already brought Esser into contact with the authorities. In 1924 he received his third conviction for theft; a victim of the hyperinflation which had brought great poverty to many Germans. One year later in 1925 he joined the SPD. In 1933 he was declared an invalid, whereafter he was dependent on welfare payments.

Esser had never made any secret of his Marxist beliefs and frequently declared them when in his local pub. Occasionally, he had also declared to those who knew him, that he was a committed marxist. Esser was arrested in November 1941, accused of belonging to an 'illegal radio listening community' (*illegale Abhörergemeinschaft*). He admitted his guilt and was sentenced to two years' imprisonment by the Düsseldorf Special Court, which was later reduced, in a unusual act of clemency, because of his disability. The investigation into Esser eventually revealed that he had listened to foreign radio broadcasts for some years, initially those of the French station Radio Strasbourg and, after the fall of the France, the BBC. For many Social-democrats radio provided a focus for social occasions and a point of

⁵⁸⁰ HStA D: Gestapo 13443

discussion for those in attendance (see table 8, p. 176). It brought new subjects and influences to Germans otherwise forced to subsist on a diet of Nazi propaganda. The centrality of Allied radio broadcasts to the maintenance of Social-democratic values and association is made clear in twenty-four (88.9%) of the twenty-seven charges of Radio 'crime' brought against Social-democrats by the Düsseldorf Gestapo: only in three of the surveyed cases had the suspect listened to foreign radio broadcasts alone. Like many others, Esser had staged regular 'listening' evenings to which he invited politically minded friends and colleagues of long-standing. They had discussed political events and tracked the course of the war through seemingly more reliable Allied news broadcasts. His file also notes that Esser regularly passed on information gleaned from broadcasts to others outside of his immediate circle of friends.

Many Social-democrats were poorly prepared for underground work and acts of anonymous, personal bravery were often betrayed by the naivety of perpetrators unused to covert activity. Friedrich Nell was by turns a member of the SPD and an anarchist.⁵⁸¹ Born in Braubach in 1888, Nell had practised a variety of trades before finding work as a clerk with the Düsseldorf municipality. Nell had first joined the SPD in 1906 and thereafter sporadically renounced and renewed his membership of the party. However, he remained in contact with his SPD colleagues. When not attempting to rebuild his ties with the SPD, Nell entertained links with various anarchist groups. Throughout this time he remained a member of the Free Trade Unions. In 1937, Nell hosted a series of meetings in his own flat on behalf of the prohibited anarchist FAUD.⁵⁸² Nell's group consisted of three similarly minded colleagues and long-term friends. They attempted to raise monies for the Spanish Republican war effort. They also listened to foreign radio broadcasts. In 1937 Nell and his three co-conspirators were sentenced to four years imprisonment. Nell was released in 1941 and found work as an auxiliary worker with a Düsseldorf engineering firm. On his way to work in January 1942, he wrote 'Down with Hitler' in the thick snow. The Gestapo followed his as then unsullied footprints to his place of work and promptly arrested him. His

⁵⁸¹ HStA D: Gestapo 63782

⁵⁸² *Freie Arbeiterunion Deutschland* - Free German Worker's Union.

eventual fate is not recorded in the file.

The files of the Düsseldorf Gestapo also contain some evidence of more serious 'crimes' of dissent committed by SPD sympathisers, intended to establish a meaningful Social-democratic underground opposition movement (see table 11, p. 200). Josef Hellenbrock was one of eleven (9.1%) Social-democrats included in the Düsseldorf Gestapo files to have participated in organised, conspiratorial dissent.⁵⁸³ Perhaps more significantly, his case is only one of seven included in the Düsseldorf Gestapo sample that concerned organised and ongoing Social-democratic opposition to Nazism. Hellenbrock's loyalty to the SPD was rooted in the profound gratitude he felt at the social and employment opportunities afforded to him by the pedagogic institutions of the party. Over several years, his initial commitment to the SPD and his participation in party affairs became absolute. Hellenbrock was born in the small Bavarian town of Bad Reichenhall in 1900. After his schooling and on the eve of the First World War, he migrated to Krefeld in search of employment. Hellenbrock started his working life as a labourer on a building site, but demonstrated considerable aptitude. With the help of evening classes organised and financed by the SPD he was able to train as a bookkeeper, eventually finding suitable employment with a local insurance firm, *Deutsches Herold*. In 1927 he resigned from his position and accepted an offer of employment at the Workers' Advisory Office of the Krefeld SPD. The dissolution of the SPD in 1933 brought a premature end to Hellenbrock's career. Later that year he was charged under the Malice statute but the evidence brought against him was dismissed and he was acquitted.

In 1934, he fell victim to improved Gestapo surveillance and was arrested as part of a group charged with importing and distributing SOPADE literature in the Reich. Hellenbrock was sentenced by the Higher State Court in Hamm to two and three quarter year's imprisonment which he duly served. In 1937 he was again suspected of illegal political activity, arrested and interrogated. However, no charge could be proven and he was released. Despite his reputation for political unreliability, and the time spent in police

⁵⁸³ HStA D: Gestapo 6587

custody, Hellenbrock was able to find and sustain employment as a bookkeeper with a local engineering firm, Gerber Wansleben. However, Gestapo knowledge of Hellenbrock's political opinions restricted his freedom to act and shortly after the outbreak of hostilities in September 1939, Hellenbrock was declared an 'enemy of the state', was arrested without charge and interned in a concentration camp for twelve months. Again in 1942, he was re-arrested, suspected of meeting with known Social-democrats. Once again, the Gestapo were unable to substantiate the charge with clear evidence of political 'wrongdoing' and he was released from police custody.

Social-democrats Before the Munich Special Court

The Social-democrats tried before the Munich Special Court for the perpetration of acts of dissent displayed a similar attachment to the social milieu of the SPD as the counterparts in Düsseldorf and its surrounding area (see figure 3, p. 128). Only seventy-three cases are included in the sample. The SPD was traditionally weak in Upper Bavaria and had not been able to establish an electoral foothold outside of the cities of Munich and Augsburg, and other smaller industrial centres.⁵⁸⁴ Despite their relative isolation, the bonds of friendship, trust and politics established between Social-democrats in Upper Bavaria proved as strong as those evidenced in the Düsseldorf Gestapo sample. The majority of the Social-democrats tried before the Munich Special Court were tried under the terms of the Malice Statute (forty-three instances). Social-democrats were also tried for Radio 'offences' (twenty-four instances) and Grumbling (six instances). The salient trends outlined in our examination of Social-democrats prosecuted by the Gestapo are replicated here. The Munich Special Court files also reveal the same patterns of political commitment and engagement in the SPD milieu. The majority experience of Nazism of those Social-democrats prosecuted before the Munich Special Court was overwhelmingly negative, marked by unemployment and a pervasive sense of isolation from mainstream society. The importance of informal political association to social-democrats as both an ideological counter to Nazism and a means of Social-support is made clear in the trial records.

⁵⁸⁴ Grossmann, A., 'Milieubedingungen von Verfolgung und Widerstand', p. 436.

In terms of sentiment and circumstance, the case of Georg Schreyegg is indicative of a further twenty-five cases of Malice tried before the Munich Special Court (see table 12, p. 216).⁵⁸⁵ Schreyegg's life history bears marked similarities to many of those cases already examined. Born in Munich in 1889, Schreyegg had worked in a variety of professions before eventually finding steady employment with the Reich Health Insurance Board. He had been an SPD member for many years and had also joined many SPD affiliated organisations which remain unnamed in the trial record. Schreyegg's early life had been almost peripatetic; he had worked as a butcher and then as a pub landlord in various towns in Upper Bavaria. In 1930 he finally settled in the area of his birth, finding work through his party contacts in the employment of the state. Schreyegg was fortunate not to have been dismissed from his employment in 1933. Like many opponents of Nazism, Schreyegg was cajoled by his superiors at work into joining the DAF (see table 2, p. 62). Schreyegg's case is demonstrative of the efforts of many Social-democrats who tried to avoid unnecessary compromises with Nazism, and instead maintained a secretive existence with trusted friends and colleagues in which limited criticism of the regime was accepted. In February 1941, Georg Schreyegg was sentenced to two years and four months imprisonment for maligning the regime. In the wake of the introduction of new ordinances directed at the supposedly work-shy, Schreyegg had declared in a Munich pub where he regularly met with former SPD comrades that it was brazen cheek for Hitler to complain about the work-shy, as before he had started his political career he had been the most work-shy person in Munich. He had been denounced to the Gestapo by another customer who had overheard the conversation.

Rarely, as we shall see, was malicious comment made by Social-democrats to complete strangers or in unfamiliar environments. Indeed, in only four cases is there such careless indiscretion. Rather this 'offence' was committed in the once safe confines of the familiar workplace, pub and home, as the case of Rudolf Hochleitner demonstrates.⁵⁸⁶ Hochleitner

⁵⁸⁵ BStA M: Sondergericht 10336

⁵⁸⁶ BStA M: Sondergericht 10504

was born in 1899 in Thann near Pfarrkirchen. He worked as an engine driver for a private railway based in Landsberg. After he had completed his compulsory schooling he worked on the family farm. Unusually among the Social-democrats surveyed, Hochleitner had lived a peripatetic existence. He had at one time founded his own bakery and had also worked for different construction firms throughout across Upper Bavaria, before eventually finding work as an engine driver. Like so many Social-democrats, Hochleitner exhibited a dependency on the institutions of the SPD and was ill-equipped to deal with a world in which they did not exist. Hochleitner was a committed SPD supporter but his file records few details about the form of this commitment. Hochleitner had a long history of criminal activity. Following the dissolution of the SPD on 22nd June 1933 and the collapse of his political and social world, Hochleitner's descent into a life of absolute crime took on new proportion. He was convicted on no less than thirty occasions, mostly for petty theft but also for the more serious crimes of fraud, burglary and aggravated assault. In November 1941, Hochleitner told friends in his local pub that revolution had broken out in Italy. He also claimed that Hitler and Keitel had quarrelled over the use of poison gas and that in the subsequent duel, Keitel had fatally shot Hitler in the stomach. Hochleitner received a one year custodial sentence. It is possible that Hochleitner had, through his criminality, become inured to the threat of judicial prosecution, developing a disregard for the law and its institutions which, perhaps, precipitated his 'crime'.

Instances of severe social-dysfunction -alcoholism, domestic abuse, psychiatric illness and propensity to violence- were relatively rare among the Social-democrats (see table 10, p. 196). However, six (8.2%) files in the Munich sample point to the inability of those thus afflicted to find a niche in Nazi German society; they remained disliked, awkward outsiders, nostalgic for the comfort and partial protection their previous association with Social-democracy had once offered. The case of Johann Trampler was indicative of the experience of this proportionately small group of Social-democrats under Nazism.⁵⁸⁷ No details are supplied about his membership of the SPD. Trampler had been born in Salle in 1890. He was one of only fifty-nine (20.7%) of the surveyed Social-democrats not to have

⁵⁸⁷ BStA M: Sondergericht 10512

learned a specific trade. Trampler spent his adult life employed as a casual labourer, trying his luck unsuccessfully at different trades. Despite his lack of formal training, Trampler had initially been fortunate and had managed to find employment working on building sites before he was conscripted into the army in 1912. Two years later, Trampler was again called to serve in the German army. However, he was released from active service in 1916, suffering from severe shell-shock. The trauma of his front-line service led, firstly to alcoholism, and thereafter to depression and unemployment. His life thereafter was characterised by sporadic employment and bouts of depression.

In 1939 he was interned in a concentration camp for alleged alcoholism but was released a year later, having given the camp authorities his assurance that he wanted to become a good National Socialist. After his release, he soon found employment on a building site on Augsburg's Schulterplatz. Bolstered by drink, he made little secret of his disdain for the regime, frequently criticising Nazi policies to his fellow workers. In December 1941, Trampler was brought before the Munich Special Court, charged with numerous counts of Malice. Throughout the Summer of 1941, it was alleged that he had frequently expressed the opinion that the Hitler government were a gang of crooks who would pay dearly once the Communists and Socialists were released from the camps. He had also expressed his longing for the English invasion of Germany and the final victory of English troops. Trampler admitted to all charges and was sentenced to one year and six months imprisonment.

Dissatisfaction with Nazism was compounded by the effects of specific Nazi policies and the behaviour of Nazi officials. The corruption of Nazi officials was a frequent source of irritation, recorded in seventeen (39.5%) of the Munich Special Court files considered here. Nazi corruption was seen in counterpoint to the relative probity of the SPD. The case of Adolf Schmidt is, however, unique amongst the Social-democrats surveyed. Anger at corruption, at a time of declining living standards, was manifested in generalised, voiced complaint. In contrast, Schmidt, alone among his peers, satirised in specific fashion the venality of the Gau leadership. Schmidt, a warehouseman from Munich, was sentenced to two years and three months imprisonment in August 1941. His disgust at Nazi corruption

led him to directly attack the Gau leadership. Schmidt was one of two Social-democrats from a middle-class background included in the Munich sample. Schmidt had been a member of the SPD between 1919 and 1923 and thereafter joined the KPD. He had trained as a pharmacist after attending a Munich grammar school.

Although never unemployed, Schmidt was unable to find work as a pharmacist after the Nazi take-over and instead worked as a warehouse man. His flirtation with the KPD was short-lived and he once again lent his support to the SPD. Schmidt was undoubtedly intelligent. Indeed, his actual 'crime' demanded a level of intelligence, gall and charisma. Schmidt regularly told both friends and strangers that the Gauleiter of Munich, Adolf Wagner, was his cousin. In the Summer of 1941, Schmidt let it be known to his colleagues that he had been commissioned by Gauleiter Wagner to deliver stocks of food to a secret location in Lower Bavaria where it would be hoarded at the Gau leadership's pleasure. The file reveals little detail of events thereafter; however, Schmidt inexplicably left a lorry laden with delicacies outside his workplace to lend credence to his story where it was later found by a local gendarme. His links with the Gau leadership remained either uninvestigated or unproven. Schmidt had also previously fallen foul of the Nazi authorities. In 1939, Schmidt had been able to purchase false Nazi membership documents and insignia. He had happily attended party events, duping the local leadership into believing he was a dignitary from Berlin and enjoying the hospitality of the Gau leadership, telling friends and acquaintances of the venality and greed of party bosses afterwards. Schmidt had also frequently been accused of making disparaging remarks about the regime. His dissent was untypical of many Germans. It was both daring and humorous and was demonstrative of a deep-seated dissatisfaction at Nazi rule.

Like the Düsseldorf Gestapo files, the Munich Special Court records reveal the centrality of foreign radio broadcasts to Social-democrats' attempts to maintain a private, partially politicised sphere, untainted by Nazism. Twenty-six (35.6%) of the Social-democrats included in the Munich Special Court sample were tried for radio 'offences'. Eighteen (69.2%) of this number had listened to foreign radio broadcasts in groups with trusted

friends and colleagues. They were also reliant on the toleration of spouses and family, who turned a blind-eye to a dangerous activity. Adolf Frank was a member of one such group.⁵⁸⁸ Born in the village of Schwabmünchen, near Garmisch-Partenkirchen in 1902, Frank's parents were poor farmers. He was born with an unspecified disability, severe enough to have rendered him incapable of permanent work. He supplemented his welfare payments by working as a handyman in the homes of Garmisch's wealthier citizens. In May 1942 he was tried with his close friend, Hans Innerhofer, also a former member of the SPD, before the Munich Court and found guilty of listening to foreign radio broadcasts. Both men were accused by the Court of being lifelong supporters of the SPD, a charge which neither Frank nor Innerhofer denied. Frank and Innerhofer had listened to foreign radio broadcasts together for some years. They had met regularly at Frank's home to do so and their behaviour had been tolerated by Frank's wife. Both were sentenced to two years and six months imprisonment.

Table 8

Listening to Foreign Radio Broadcasts

N.B. Percentages refer to each Individual milieu

	With a Political Purpose	With No Political Purpose	Alone	In Groups
Social-democrats	85 (29.8%)	33 (11.5%)	42 (14.7%)	76 (26.6%)
Communists	193 (17.9%)	74 (6.8%)	34 (3.2%)	137 (12.7%)
Catholics	3 (0.2%)	168 (22.5%)	87 (11.7%)	84 (11.2%)
Individuals	15 (1.7%)	143 (15.9%)	127 (14.1%)	31 (3.4%)

⁵⁸⁸ BStA M: Sondergericht 10563.

The case of Josef Bachmeier brings together many of the ideas we have thus far examined.⁵⁸⁹ His case demonstrates the importance of political and social bonds formed before 1933 to the maintenance of a private Social-democrat milieu under Nazism (see also table 15, p. 278). The many illegal radio listening groups which characterised the Social-democratic milieu under Nazism were dependant for their survival on notions of established trust and fealty. In October 1941, Bachmeier, a trained chimney sweep, was sentenced by the Munich Special Court to one year's imprisonment for belonging to an illegal radio listening group. He was not tried alone but as part of a larger group, including friends and neighbours. Bachmeier was accused of regularly listening to the BBC German language broadcasts. Each of the eight members of the group tried had been one-time members or supporters of the SPD. Bachmeier himself had joined the SPD in 1928 and was also a member of a trade union unnamed in the court record. He and his associates met regularly and discussed the programmes to which they listened, particularly those devoted to the course of the war in the West and the German invasion of the Soviet Union. Thereafter, they assessed the chances of German defeat. Their wives and families refused to condemn their activities and did not approach the police. Each member of the group was aware of the risk they were taking, entrusting their futures to others, placing their trust in long-standing political loyalties and friendships won through an engagement with the social and communal organisations affiliated to the SPD. Each member of the group hailed from the same working-class Munich suburb of Neuhausen. Eventually, Bachmeier's group were denounced by the neighbours of friends who had grown suspicious of the groups comings and goings.

The extent to which a private SPD milieu existed is, in part, revealed in a letter sent by Martin Hauber, a cheese-maker from Tettngang in Upper Bavaria, and then in self-imposed exile in Switzerland, to a friend, Bernhard Carl, in Hamburg.⁵⁹⁰ Hauber was born in 1901 in Tettngang, a town he did not leave until fear of persecution drove him to Switzerland. After he finished school, Hauber worked for the family cheese-making business which he later

⁵⁸⁹ BStA M: Sondergericht 10154.

⁵⁹⁰ BStA M: Sondergericht 11404

inherited. Hauber's father had been an enthusiastic SPD supporter and the young Martin later adopted his father's politics. He was both a member of the SPD and an avowed supporter of the Weimar Republic. Hauber had fled to Switzerland in 1935, claiming in his letter that he had lost any possible sympathy for the Nazi government in 1934 and had tired of the petty persecution he had suffered. The local police had arrested Hauber on no less than nine occasions for alleged motoring offences. He continued, writing that he would remain in Switzerland until he could return to raise the republican tricolour flag. He stated that only war would bring liberation to Germany. In a veiled reference to Hitler, he claimed he would have to wait for the death of Nero before visiting Hamburg, if that was, it still existed. Hauber was extradited by the Swiss authorities in 1941 for alleged financial irregularities unearthed by the Berlin Regional Court. Hauber never stood trial in Berlin or answered questions about his financial dealings. Instead, he was charged with Malice and tried before the Munich Special court. Hauber was found guilty and sentenced to 6 months' imprisonment. His final fate was not recorded in the court record.

Social-democrats Before the People's Court

The trials of ninety-one (16.5%) Social-democrats are included in the sample of one thousand trials heard before the People's Court in Berlin (see figure 4, p. 138). Those cases heard before the People's Court were regarded by the Nazi authorities as more serious than many of those we have hitherto examined. The informal radio listening and discussion groups which were characteristic of SPD dissent in the previous samples are also present in the People's Court sample, accounting for thirty-four (37.4%) of the surveyed cases. The sample includes thirty-nine (42.9%) counts of Defeatism and the Undermining of the Fighting Strength of the German Nation; 'offences' which were in their detail almost indifferentiable. Cases heard before the People's Court possessed either, a further 'political', or criminal dimension, which differentiated them from many of the case histories we have thus far examined, or as we noted earlier, significant propaganda value. Histories of previous political dissent or criminal activity often led to the trial of individuals

accused of seemingly minor charges before the benches of the People's Court, as happened in fifty-three (58.2%) of cases. Significantly, the People's Court sample also contains eighteen examples of organised, conspiratorial dissent committed by Social-democrats.

In fifteen (83.3%) cases conspiratorial dissent involved collaboration and direct engagement with the KPD underground. The case of Julius Balkov is demonstrative of the participation of Social-democrats in illegal Communist groups.⁵⁹¹ It is important that we note that this engagement with underground KPD was not indicative of changing political affinity but rather of difficult circumstance and limited opportunity.⁵⁹² Particularly after the outbreak of war, the network of KPD underground cells was one of few vehicles available to ordinary working-class Germans seeking to give expression to their political beliefs and directly confront the regime. Balkov was sentenced by the People's Court to seven years imprisonment for his role in the organisation of a Communist group in Berlin in the Summer of 1944. Three of his co-conspirators, Josef Höhn, Egmont Schultz and Rudolf Sieffert, were sentenced to death; a fourth, Friedrich Feßmann, was also sentenced to seven years' imprisonment.

Balkov's engagement with the SPD had started when he worked as a mechanic for a Berlin garage in the 1920s. He had attended SPD sponsored evening classes and eventually qualified as an engineer, finding well paid work with Siemens. Although Balkov had only joined the party in 1931, he had already been a member of the SPD affiliated Metal Workers' Union for the previous two years. His private life was not particularly happy. His first wife had died of tuberculosis and his second marriage remained unhappily childless. Balkov had also failed to win promotion. He had been overlooked by bosses suspicious of his political beliefs. Balkov had been recruited into illegal political work by colleagues who had long been aware of both his political opinions and his personal and private unhappiness. The group to which he belonged had been founded by the Communist functionary, Franz Sieffert, in 1943 and was well established in Berlin's armaments factories.

⁵⁹¹ WaH VGH IH 356/44 8J 214/44

⁵⁹² Mallmann, K., & Paul, G., *Milieus und Widerstand*, pp. 282 - 286, & pp. 312 - 314.

He had shown little dispensation towards Nazism and had been approached by colleagues at work. His work with the group was limited. He attended meetings and read smuggled KPD literature. He also contributed to the group's finances, donating a proportion of his own wage and approaching colleagues for further donations.

A quiet sense of desperation underlay Balkov's actions. The Nazi take-over had brought his career to a halt. Importantly, Balkov lived in a city increasingly devastated by war. German defeat seemed inevitable and, under these circumstances, it is perhaps unsurprising that Balkov looked towards his previous political associations regardless of its ultimate cost. The same, almost nihilistic determinism informed the actions of Balkov's co-defendant, Friedrich Feßmann. Born in 1894, Feßmann was fifteen years older than Balkov. He had long been a member of the SPD. However, Feßmann had demonstrated a radicalism uncommon to many Social-democrats. Disappointed with the attitudes and actions of the SPD leadership, Feßmann had voted for the KPD in both 1924 and 1932 and had taken part in violent political demonstrations. Like many Social-democrats seeking to establish a liveable existence under Nazi rule, Feßmann had felt compelled to demonstrate a certain superficial commitment to Nazism. He had joined both the DAF and the RLB⁵⁹³ but exhibited little enthusiasm for either. His hatred of Nazism appears to have increased when in 1940 he had been forced to give up his lifelong employment as a dry cleaner and work for a Siemens owned munitions factory in Berlin Marienfeld where he had first come into contact with Balkov. Certainly, a growing realisation that Nazi rule was slowly coming to an end, encouraged this once actively political man to become involved with a cell of the KPD underground.

As we have noted, most incidents of political association encountered in the Social-democrat sample concerned the informal meetings of former party comrades, in only four cases do the files of the People's Court reveal evidence of a formal determination to rebuild the SPD as a political organisation. In each example those involved had exhibited a remarkable commitment to Social-democracy; occupying positions of power within the

⁵⁹³ *Reichsluftschutzbund* - the National Air Protection League

party. They had lived and breathed the politics of the Social-democratic milieu. Although all four defendants had appeared to abandon their active engagement in illegal political activity during the first years of Nazi rule, the prospect of a German defeat galvanised them and they returned to an active involvement in politics. The case of Karl Heym is instructive.⁵⁹⁴

Heym was, by trade, a fitter from Suhl in Thuringia. He was tried before the People's Court for Conspiracy to Commit Treason with his colleague and friend, Otto Glaubitz, on 16th January 1945. Both men were sentenced to death.

Heym was found guilty of regularly meeting with a large group of like-minded individuals in both pubs and private homes. The group frequently listened to foreign radio broadcasts and discussed the political situation, criticising the policies pursued by the regime. Heym's group possessed an organisational quality rare among Social-democrats. Heym's circle paid regular dues to a collective fund and was intended to provide a future basis for rebuilding the SPD in the Suhl area. Heym was born in Suhl in 1882. He was apprenticed as a fitter and worked in this trade until 1913. He had belonged to the left-wing of the SPD and spent some time working for the USPD⁵⁹⁵ and the KPD before returning to the SPD in 1926. Heym had edited the local party newspaper. From 1926 he was the Suhl SPD Party Chairman despite having served as a MP for the KPD in the Prussian parliament from 1924 until 1926. Heym had had dealings with the Gestapo in 1933 and 1934 for his role in the organisation of covert Social-democrat groups in the Suhl area. He had continued to meet with former party functionaries. However, his arrest and brief internment soon dissuaded him from this course of action. Only in mid 1943 with German defeat an increasing certainty, did Heym resume his political activity.

The most serious 'crimes' of dissent committed by Social-democrats were not informed by an absolute commitment to politics alone. Thirty-seven (40.7%) Social-democrats tried before the People's Court had led lives blighted by social trauma. They were social outsiders and many had already fallen foul of the institutions of the Nazi state, slowly losing

⁵⁹⁴ WaH VGH 10J 1688/44 2H 207/44

⁵⁹⁵ *Unabhängige sozialdemokratische Partei Deutschlands* - Independent Social-democrat Party of Germany.

their respect and fear of the authorities. Twenty-nine (31.9%) of the Social-democrats included in this sample had been convicted previously, of whom twelve had been convicted by both Weimar and Nazi Courts. The high rate of previous conviction is no doubt a reflection of Gestapo practice, as noted in chapters one and two. The police routinely used those with established histories of political and criminal engagement as the starting point for new investigations and for the identification of 'new' targets.

Paul Janke had both an established history of political agitation and a criminal conviction. Like many, he demonstrated a disregard for the ordinances of the Nazi regime.⁵⁹⁶ His political beliefs were shaped and informed by his considerable dysfunctionality. In comparison to most former SPD sympathisers considered who had received only a basic education, Janke had been fortunate enough to have been educated at a Berlin grammar school. Janke was a trained chemist and worked as a chemical engineer, firstly in his father's firm and after 1939 for an unspecified Berlin munitions factory. His father was a wealthy paper merchant who was a known SPD supporter. Janke had politically, at least, followed in his father's footsteps. He became a vociferous supporter of the SPD. However, Janke was hampered both politically and professionally in his endeavours by a childhood injury which had deprived him of the use of his left arm and left him blind in one eye and prone to fits of anger. His childhood had been traumatic; his mother had been unable to cope with the boy and he had twice been taken into foster care. Ill health had also prevented him from completing his *Abitur*.

Janke's adult life was also beset with problems. He had married in 1933 and his wife had given birth one year later. However, shortly after the birth of his daughter he was jailed for nine months for abusing an eight year old girl. Certainly, it would be improper to suggest that any of the factors listed above were causal. However, to dismiss these as incidental would be to ignore a series a series of behavioural characteristics which might well have influenced what in late 1944 were certainly risky and, perhaps, also foolhardy actions. Janke had regularly listened to foreign radio broadcasts, discussing information and issues raised.

⁵⁹⁶ WaH VGH 2H 201/44, 10J 735/43

Importantly, Janke passed on information gleaned from the radio to friends and colleagues, particularly soldiers home on leave or travelling through Berlin in the final months of 1944. He was also known to have passed on KPD propaganda. Janke was sentenced to the death with two comrades, Josef Funk and Paul Sonntag on 21st February 1945.

As we noted earlier, the SPD had drawn support from the Weimar liberal, urban intelligentsia. The involvement of twenty-four (82.8%) of the twenty-eight Social-democrats of middle-class origin surveyed, in the politics of the Social-democratic milieu, was entirely political, and not, social. In only four cases had middle-class Social-democrats joined SPD social and cultural organisations. The case of Richard Lehman is instructive of this predominantly political rather than social engagement.⁵⁹⁷ Lehman was a journalist and active member of the SPD. However, he had not belonged to any of Social-democrat social or communal organisations. Lehman had been born to a German father and Jewish mother. His mother's 'race' almost certainly determined his later fate. Born in Vienna in 1900, Lehmann had studied Anthropology at university. Thereafter, he had developed a successful career as a journalist and illustrator for various left-leaning national and regional newspapers.

In April 1933, only months after the Nazi take-over, Lehman was made redundant. Only in 1936 was he finally able to find new work as an office clerk at a Leipzig furniture makers. Lehman had joined the SPD in 1923 and remained an active member until its dissolution. he had managed to avoid confrontation with the Nazi regime despite his known political beliefs and his vulnerable status as a *Mischling* (of mixed German and Jewish descent). Lehmann became involved with a large KPD group based in Leipzig in early 1943. He was eventually tried with nine others on 24th November 1943. Lehmann and two others were sentenced to death. His wife, Erna, a lifelong member of the SPD and, a tailor's assistant by profession, was sentenced to only three years imprisonment. As a woman, she was successfully able to plead diminished responsibility and escaped with a proportionately lenient sentence. The sentences passed by the bench would undoubtedly

⁵⁹⁷ WaH VGH 2H 220/44 9J 235/44

have been more bloody, had three of the defendants not been women.

The group to which Lehmann belonged was active in the production and distribution of propaganda. Typically, dues and subscriptions were collected and foreign radio broadcasts listened to. However, the group was unusual in several respects: firstly, it claimed, to be the Leipzig branch of the National Committee for Free Germany, thus clearly identifying itself as an opposition group; secondly, the group was in contact with leading Communist functionaries both in Germany and abroad. The social basis of the group was unusually broad. It encompassed workers and professionals. In certain cases the associations were clear. Hermann Kühn, a former KPD Newspaper editor from Halle, knew Lehmann from his time as a journalist. The group also included a hospital consultant and former Nazi party loyalist, Josef Schmömerich, and the director of a large factory, Wolfgang Heine. The group was not, however, specifically bourgeois; it included two factory workers from the poor industrial suburbs of Leipzig, Paul Oehme and Paul Reifenscheid. It is difficult to discern a specific milieu-based, communal bond, holding the group together; rather, in this particular circumstance, it is to the primacy of politics and dissatisfaction with the regime that we must turn to explain the participation of the different individuals in a dangerous endeavour, which as we have hitherto seen, relied on bonds of trust developed over many years.

The Social-democratic Milieu and Dissent: A Summary

Many Social-democrats were unable to find an accommodation with Nazism. They lived lives of increased social isolation which compounded their frustration at their personal vicissitude. As we have seen, Social-democrats retained an attachment to the political and social values of their milieu and attempted to maintain vestiges of their former socio-political environment despite the atomisation of German society and the dangers posed by illegal activity.⁵⁹⁸ Mostly, those Social-democrats who tried to preserve their former milieu, did so in an informal manner. They shunned organisational structures, meeting only with trusted

⁵⁹⁸ Peukert, D., *Inside the Third Reich*, p. 125.

friends and colleagues. Only twenty-nine (10.2%) cases Social-democrat dissent concerned cases of organised, conspiratorial dissent. The sample is dominated by the actions of older men, aged between forty-five and sixty.⁵⁹⁹ These men were not bound by their belief in political Social-democracy alone but by a series of social and economic experiences common to the vast majority of those who perpetrated acts of dissent during the period considered. In contrast, women played only a marginal role in Social-democratic political life and account for only seventeen of the cases included in the Social-democrat sample.⁶⁰⁰ The files reveal only three instances of the involvement of women in more serious acts of dissent (see table 14, p.235, and figure 8, p. 236). Nine of the remaining eleven women included in the three samples were tried with their husbands, receiving lesser punishments because of a perceived, sexually determined, diminished responsibility.

The active participation in the politics of their milieu, not only shaped the future attitudes of many Social-democrats towards Nazism but in many circumstances had propelled them into leading positions within their communities. Many of those included in the sample had also played an active role in the social and cultural life of the Social-democrat milieu.⁶⁰¹ The party and its institutions could dominate the life of the individual entirely. Sixty-three Social-democrats included in the files existed entirely within the Social-democratic socio-political sphere. In fifty-eight (20.3%) cases, defendants had not only been full members of the party, but occupied positions of power at a local level. The files reveal, that their commitment to the SPD cause was political rather than the shared social experience outlined by Mehringer. Lives lived in an wholly SPD milieu indubitably compounded belief in the aspirations and the ideology of the SPD but left individuals unable to adjust to the changed circumstances of Nazi rule. As we have seen in several cases, there is substantial truth in the frequently propagated image of the invalid and pensioners *Stammtisch*, at which the regime was quietly berated and Social-democratic values reinforced.⁶⁰²

⁵⁹⁹ see figure 5, p. 150.

⁶⁰⁰ Stephenson, J., *Women in Nazi Germany*, pp. 109 - 112.

⁶⁰¹ see table 6, p. 153.

⁶⁰² Mehringer, H., 'Sozialdemokratischer und Sozialistischer Widerstand', p. 128.

In the twenty-nine cases of more radical, organised dissent, an absolute immersion in Social-democratic values and, at a times, a private sense of desperation, can be identified as the principle motivating force. Mostly, Social-democrat dissent manifested itself in the organisation of informal groups, listening to foreign radio broadcasts and the making of derogatory remarks about the regime. Radio crimes and the informal, political association of Social-democrats alone constitute two-hundred and eight of the considered files and were frequently linked. The experience of the Bismarckian prohibition of the SPD and the subsequent retreat into a largely private, closed sphere clearly influenced the responses of Social-democrats to Nazism. Ideals and values were kept alive and contact with members maintained, but confrontation with the regime was avoided. Foreign radio broadcasts, particularly those of the BBC, provided former SPD members and supporters with a source of information better attuned to their own ideals and values than the propaganda organs of the Nazi press and and radio. The German language broadcasts of the BBC were more than a covert fulcrum of solidarity, but they were also a source of hope for a post-Hitlerian future, providing information which formed the bedrock of discussions at informal meetings of Social-democrats throughout Germany. That the BBC was listened to in secret despite the draconian punishments faced by those caught and prosecuted, not only points to the acute need for reliable reports on the course of the war, but also the continued, personal rejection of Nazi ideology and its propaganda by many otherwise powerless individuals throughout the war.

The three file samples, point to a proportionately small but nevertheless not insignificant corpus of Social-democratic dissent, helping, after investigation, to establish a clearly discernible link between the exposure of individuals to the socio-political milieu of Social-democratic communities during the Weimar Republic and before, and the preparedness to commit a crime of dissent. Those individuals like Karl Heym who had once stood at the centre of the communities were unable to find a satisfactory role in the Nazi 'National-community' and were often shunned both professionally and socially. They wanted to preserve a vestige of a life that once was, confronting the demands of a regime that sought

to control every aspect of public and private life whilst maintaining a core set of values which were deeply influenced by German Social-democracy. Those who committed 'crimes' of dissent conformed to specific type. They were mostly middle aged men who had once enjoyed moderately successful professional careers in the skilled trades, whose lives had come to an, at times, violent, *impasse* after 1933. They were rarely forcibly expelled from the Nazi 'National-community' but were never truly welcomed into it.

The evidence for the Social-democratic milieu presented in this sample does not point to a community which existed only because former Social-democrats had committed acts of dissent, or because social 'outsiders' who sought solace in the company of similar individuals. Rather, the majority of the 'crimes' examined had a clear political dimension shaped by the politics of Social-democracy as it had existed before 1933. Social-democrats met with comrades in order that they could discuss the political situation from a perspective informed by the politics of Social-democracy in an attempt to maintain the vestiges of their milieu. Significantly, they chose to associate with other Social-democrats and not other individuals regarded by mainstream society as 'outsiders'. What we have seen here is the clear evidence of a Social-democrat milieu. Without the bonds of trust formed over many years political, professional and social association, many of these 'crimes' might never have been committed. The values and shared experience of Social-democracy also informed expressions of dissent. The continued association of former SPD men and, to a much lesser extent, women, maintained the political values that had once formed the nucleus of the SPD milieu and provided a valuable and necessary counterpoint to Nazism in an otherwise atomised society.