

The Rule of Law protects businesses, individuals

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President Dwight D. Eisenhower said, “The clearest way to show what the Rule of Law means to us in everyday life is to recall what has happened when there is no Rule of Law.”

In 1932, Germany’s Weimar Republic was a democratic parliamentary republic, with a democratically elected president and parliament, and a chancellor selected by the parliament. The government had laws, courts of justice and human rights protections.

The Weimar constitution held that every German was equal before the law and gave all German men and women over age 18 the right to vote. The constitution guaranteed freedom of religion, speech and individual rights. It provided social and economic rights, including the right to acquire property and pursue a trade. It also provided for judicial independence, stating that judges were subject only to the law.

The legal profession was vibrant and diverse, and lawyers represented citizens in courts to protect their rights. In many German cities, a significant portion of the lawyers and judges were Jewish.

Long before the Nazi SS enforcers sent 6 million Jews and 5 million other “non-Aryans” to concentration camps, they seized Jewish citizens’ property and stripped their livelihoods. Did the victims of property seizures seek legal recourse in German courts? Did they hire Jewish lawyers to file claims over what was unfairly taken?

Adolf Hitler took measures that prevented those victims from engaging their brethren to seek restoration of their legal rights. In March 1933, Hitler issued a decree barring Jewish lawyers and judges from German courts. Consequently, the legal experts who might have been most likely to protect the Jewish citizens who had their property and livelihoods taken were unable to do so.

How did Hitler manage to override the rights guaranteed in the Weimar constitution? In 1930, the Nazis won 18 percent of the parliamentary seats, making it the second largest party. Not content with second place, Hitler and the Nazi party worked on amassing their power, pursuing their agenda and eliminating those who would try to stop them. They started by arguing that the Communists posed a serious threat to the security of the German people and needed to be eliminated.

One Jewish lawyer in Berlin tried to challenge the Hitler-led assaults against Communists and alleged Communist sympathizers. In 1931, Hans Litten subpoenaed Hitler, as Nazi party leader, to testify in a case against four Nazis accused of killing Communists. Litten grilled Hitler for three hours, showing how the Nazis plotted revolution. Hitler defiantly testified that the Nazis were a peaceful democratic movement. He could have been found guilty of perjury. Instead, Litten was one of the first political opponents the Nazis rounded up for persecution. In 1933, the Nazis arrested Litten and sent him to a concentration camp. Despite his mother's appeals through her political connections, including to Prince Wilhelm of Prussia, she could not secure her son's freedom. He died in a concentration camp after five years of torture and interrogation.

In 1932, Hitler ran for president, but came in second to Paul von Hindenburg. Hindenburg then succumbed to pressure to appoint Hitler as chancellor on Jan. 30, 1933.

The Feb. 27, 1933, fire in the Reichstag parliament building prompted Hindenburg to issue the Reichstag Fire Decree, at Hitler's urging, which suspended basic rights and allowed detention without trial. Hitler argued that the fire was a sign of a massive Communist plot and was just the start of what would be a series of terrorist attacks against Germans by Communists.

Hitler asserted that the Communist threat required emergency measures so that suspected Communists could be eliminated. On March 23, 1933, the Reichstag adopted the Enabling Act, through which it relegated full legislative power to Chancellor Hitler and his cabinet for four years.

Hitler broadened his attacks to target Jews, as well as any group that he thought might oppose his increasing powers. Even Rotary Club members were targeted. After Hitler issued the decree barring Jewish lawyers and judges from German courts, the Nazis publicly warned people not to use Jewish lawyers. Unlike Hans Litten, most lawyers didn't dare to challenge Hitler's actions or the Nazi control over the German legal system. Hitler continued to amass greater powers.

Anticipating Hindenburg's death, the Reichstag passed a law allowing Hitler to become Hindenburg's successor as president, while remaining chancellor. The next day, Aug. 2, 1934, Hitler took both mantles and claimed the moniker "Führer." He later made the remaining judges swear an oath of loyalty to the Führer.

An extraordinary exhibit entitled "Lawyers without Rights: Jewish Lawyers under the Third Reich" chronicles Jewish lawyers who were affected and the consequences of Hitler's erosive steps toward destruction of the Rule of Law. The exhibit was created by the German Federal Bar to teach the lessons learned from this era. It is touring the United States with support from the American Bar Association.

The exhibit contains pictures and descriptions of lawyers who were dispossessed, those who escaped, those who disappeared and some who perished. The exhibit will be on

display at the Old Dominion University Library from April 2 through April 30 and will be in Virginia Beach for a Law Day celebration on May 2. Local organizations have joined forces to create special programs concerning the exhibit.

On April 11 from 5:30 to 8:30 p.m., ODU will host a reception and panel discussion featuring former U.S. Congressman and World War II veteran G. William Whitehurst, Ph.D.; the Honorable U.S. District Judge Mark S. Davis; and German Professor Frederick Lubich. The program is sponsored by the Norfolk & Portsmouth Bar Association Foundation, the Federal Bar Association Hampton Roads Chapter, the Institute for Jewish Studies and Interfaith Understanding at ODU, the German Embassy in Washington, D.C., and the Holocaust Commission of the United Jewish Federation of Tidewater.

The Virginia Beach Law Day celebration takes place on May 2 from 6 until 9 p.m. at the Sandler Center for the Performing Arts, sponsored by the Virginia Beach Bar Foundation and some member firms of the Virginia Beach Bar Association. The program will feature a panel discussion with U.S. Senior District Judge Henry Coke Morgan Jr. and Sandra Schulberg, a film producer whose father created the film of the Nuremberg Trials. The program will include actual film excerpts of the Nuremberg Trials, which restored the Rule of Law in Nazi-occupied lands. Chief prosecutor of the International Military Tribunal, U.S. Supreme Court Justice Robert H. Jackson made the decision to film the trials, feeling it was imperative for Germans and the world population to see that the Nuremberg defendants received fair trials.

Jackson's approach fits the purpose of Law Day, which was declared by President Eisenhower to recognize the importance the Rule of Law plays in preserving freedom, justice and equality. For more information about these programs, contact Farideh Goldin at fgoldin@odu.edu.

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