

Transcript of Hans-Christian Jasch: The Holocaust and Fundamental Rights

Dr. Hans-Christian Jasch was appointed as director of the House of the Wannsee Conference in May 2014 after a career as a lawyer in the Federal Ministry of Interior. In this interview, aspects of the Holocaust as an administrated genocide and the role of the Wannsee Conference will be explained.



1. Why is the Holocaust relevant in a human rights perspective? And how did the Nazi movement perceive fundamental rights?

Nazi ideology negated the principals on which universal fundamental rights were built. Protection of human rights and democracy were considered by the Nazis an “alien” form of government imposed by the victorious powers of WWI. In their eyes, fundamental rights would only preserve

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L a n d	Zahl
A. Altreich	131.800
Ostmark	45.700
Ostgebiete	420.000
Generalgouvernement	2.284.000
Bialystok	400.000
Protektorat Böhmen und Mähren	74.200
Estland - judenfrei -	
Letland	3.500
Litauen	34.000
Belgien	43.000
Dänemark	5.600
Frankreich / Besetztes Gebiet	165.000
Unbesetztes Gebiet	700.000
Griechenland	69.600
Niederlande	160.800
Norwegen	1.300
B. Bulgarien	48.000
England	330.000
Finnland	2.300
Irland	4.000
Italien einschl. Sardinien	58.000
Albanien	200
Kroatien	40.000
Portugal	3.000
Rumänien einschl. Bessarabien	342.000
Schweden	8.000
Schweiz	18.000
Serbien	10.000
Slowakei	88.000
Spanien	6.000
Türkei (europ. Teil)	55.500
Ungarn	742.800
UdSSR	5.000.000
Ukraine	2.994.684
Weißrußland aus- schl. Bialystok	446.484
Zusammen: über	11.000.000

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the “weak” and would thus not take account of racial “principles” – the fundament on which a racial state would be built. The main purpose of this racial state was to provide for the survival of the self-proclaimed “master-race” and annihilate “alien elements” and those considered “unfit for life”.

Page 6 of the protocol of the Wannsee Conference. Source: Politisches Archiv des Auswärtigen Amtes, Berlin R 100857, p. 171.

2. What happened after Jews and others had been denied fundamental rights?

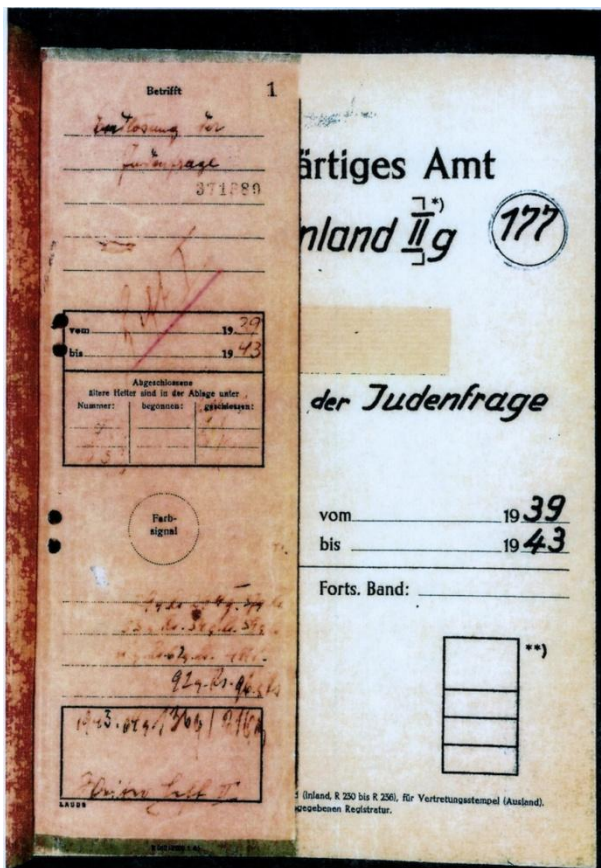
Jews – and also other groups such as Roma or the disabled – were therefore treated as mere objects with no rights or, worse still, as a “problem” or a “question” for which a “final solution” was sought. In the case of the Jews, this

“solution” – nowadays called the Holocaust – began to be implemented in the “East” from the summer of 1941 onwards, starting with the cold-blooded mass murder of hundreds of thousands Jewish men, women and children in Eastern Poland, Belarus, the Baltic countries, Ukraine, Romania and Serbia. It was also then that so-called Einsatzgruppen (German police battalions), their local helpers and the German military began the systematic mass killing of Jewish people. This mass murder was motivated by the aforementioned racial ideology and was often executed under the cloak of “preventative partisan warfare”, a label intended to justify even the killing of babies as potential avengers of their parents. It aimed at “cleansing” a vast territory in the East in order to create “living-space” for a supposedly superior “Aryan race”.

3. How did the Holocaust reach its European dimension?

But the Holocaust did not simply consist of herding people in the “East” into trenches and shooting them. Around the end of 1941 the mass murder was enlarged to the scale of comprehensive genocide of all European Jews within the reach of the Nazi regime. It became a sophisticated programme of systematic “ethnic cleansing” using complex logistics aimed at the total destruction of European Jewry.

4. What were the specific features of the Holocaust? What was the role of the civil administration?



Even though the Holocaust was inspired by an irrational racial ideology it was implemented by a lethally efficient administration functioning according to principles of bureaucratic rationality. This began with the legal and administrative decisions by which people were defined as Jews, vilified and systematically discriminated against. Although their original aim was isolation and expulsion, these decisions proved instrumental for even more radical measures. After the beginning of the war, Jews were labelled and physically separated from the majority population. Before the Nazis could deport and kill them, they first had to strip them of their rights, their citizenship and their property. This was performed by way of regulations and administrative acts. Jews were first degraded to the status of citizens with lesser rights and eventually to non-citizens with no rights.

File on the “Final Solution of the Jewish Question” of Martin Luther, Undersecretary of German Foreign Office and participant of the Wannsee Conference. Source: Politisches Archiv des Auswärtigen Amtes, Berlin R 100857.

5. Who participated in the Holocaust? To which societal groups did the perpetrators belong?

Tackling the “Jewish problem” or “solving the Jewish question” involved perpetrators from different layers of society and with different professional backgrounds. They implemented over 1,200 laws and decrees to deprive Jews of any legal status, take away their property, arrest them and deport them, before the victims were eventually killed by means of mass shootings, forced labour or in industrial-style killing centres. Administrative coordination was essential to ensure that the complex logistics of these “measures” could be implemented “smoothly” in a “legal framework”. This suggested providing a certain degree of reliability for the necessary channels of communication, and reduced the impact on the way the “majority society” functioned. Legal provisions were put in place to provide for exceptions, ensure that obligations were met, debts were paid and that the Jews could “disappear” without leaving too much of a legal void that would harm the functioning of society.

One example of the carefully prepared legal framework for unprecedented acts of violence was the 11th decree supplementing the Reich Citizenship Law of November 25, 1941 (RGBl. I S. 722). It facilitated the deportation and murder of Jews by determining that deported Jews would lose their citizenship and hence their property.

6. How were people dehumanised in the course of the Holocaust?

Lawyers, doctors and scientists labelled entire population groups as “misfits”, “alien”, “racially inferior” or as “members of the adversary race” (Gegenrasse), deprived them of their civil rights and separated them from the “community of the people”, the Volksgemeinschaft, which was proclaimed to be racially homogenous and of “German blood”. By stigmatizing and othering groups as a “societal problem”, as in the case of Jews, Roma and the disabled, people were ostracized from the majority population; “racial mixing” and even simple contacts were criminalized, existing bonds were destroyed. This created the necessary level of acceptance – standing by – among the majority population of the discrimination against such labelled minorities and, eventually, of their elimination. A cloak of legality provided legitimacy to the “measures”, even in the eyes of those who did not follow the Nazi ideology out of conviction, and facilitated the involvement of the traditional elites, especially within the administration. Genocide thus became not just racially-motivated mass murder parallel to the war, but also the product of sophisticated planning, administration and logistics. It was implemented by sometimes rival players who relied on functioning chains of obedience and close coordination.

With the modern division of tasks and competences, individual responsibilities were also divided. This increased the anonymity and the efficiency of the genocidal process. The sober rationality of bureaucracy and its detached, euphemistic language enhanced these dynamics, since even the most incredible crimes and human catastrophes could be wrapped into a distant, rationalizing administrative jargon.

7. Was the Holocaust simply a product of bureaucracy?

It would be a misconception, however, to perceive the Holocaust as a project of a faceless bureaucracy implementing the decisions of the Fuehrer: since “Jewish Policy” was an integral part of the very core of Nazi ideology, it quickly evolved into an important and prestigious field of policy-making in the “Third Reich”. Officials competed for political influence, visibility and power, triggering a process of “cumulative radicalisation”, a murderous dynamic that eventually

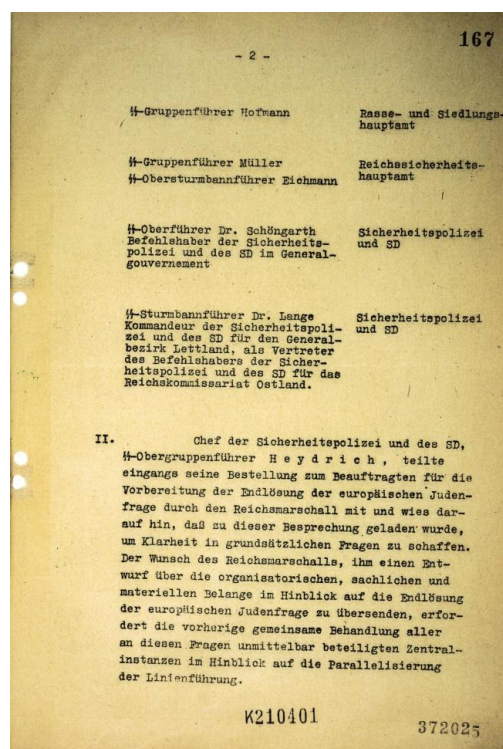
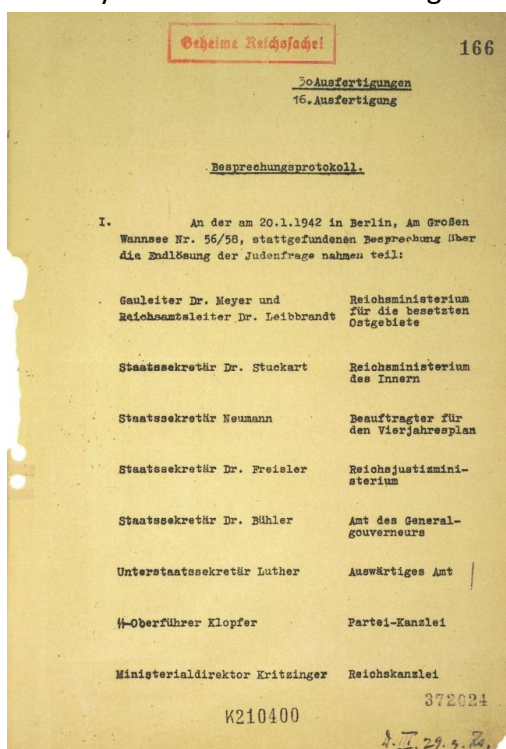
culminated in genocide. This area of policy offered career opportunities to ambitious bureaucrats – most of them trained in the law – not only in the newly created special agencies of the SS and the Nazi Party, but also in the more traditional branches of government, such as the national ministries and local administrations, sometimes competing to outdo each other with ever more radical proposals targeted at Jews.

8. What then was the role of the civil service?

The Nazi leadership relied on an effective and well organized civil service to implement its policies, despite Hitler's and Himmler's frequent attacks on "intransigent lawyers and bureaucrats in the state-apparatus" – in one of his Reichstag speeches, on 26 April 1942, Hitler declared: "I will not rest until every German understands that it is a disgrace to be a lawyer" – and Hitler's aversion to a "legal corset" that limited his exercise of power. Young, high-flying lawyers in the public administration were needed to translate anti-Jewish intentions and programmes into law. The regime could count on their loyalty, diligence, legal expertise, administrative experience, and imagination.

9. What happened in Wannsee?

The Wannsee Conference, held on 20 January 1942, shows the wide-ranging cooperation between the SS and police apparatus, free from legal restraint and acting on the orders of the Fuehrer and his agents on the one hand, and of the bureaucracy that followed legally established rules on the other. The conference assembled 15 high-ranking representatives from the SS and police and from various ministries to discuss the "final solution to the Jewish Question". It was convened by the head of the Security Police and the Security Service of the SS, but most of the participants were trained lawyers and held doctoral degrees from different universities.



Protocol of the Wannsee Conference, pages 1 and 2. Source: Politisches Archiv des Auswärtigen Amtes, Berlin R 100857, pp. 166-167.

10. What was the purpose of the conference?

The particular objective of the inter-ministerial conference held in an SS guesthouse in the affluent Berlin suburb of Wannsee was to extend the scope of the extermination of Jews to Central and Western Europe, and to discuss and “straighten out” remaining legal issues with regard to the inclusion of so-called half-castes or people living in so-called mixed marriages. The minutes of the Wannsee Conference, which were found by the staff of the US military prosecutors preparing the Nuremberg trials in 1946/47 in the archives of the participating German Foreign Office, testify to a genuinely European dimension to the murderous plans for “solving the Jewish question in Europe”. The conference stands for the horrendous plan to completely exterminate a European minority with the active participation of numerous state institutions and is therefore a key event in modern European history, one which should remain an important reminder to today’s decision-makers when it comes to respecting human rights and the treatment of minorities in Europe.

11. What does Wannsee signify for us today?

The conference also exemplifies the role played by bureaucracy, its use of administrative methods and the way it functioned according to modern principles of division of competences and tasks when implementing the genocidal project. It is therefore an important point of reference by which we can better understand the function and potential of, and the particular challenges and risks posed by, modern bureaucracy. Staff in bureaucratic institutions need to be sensitized to these risks and need to be given a clear understanding of their scope of action, existing control mechanisms and whistleblowing opportunities as soon as possible.

The history of the Wannsee Conference and the mechanisms and institutions which enabled the Holocaust are an important subject of study for today’s lawyers and administrators to raise awareness of the potential risks of bureaucracy when human rights violation on a massive scale are threatening. Studying cases which show both the historical facts and the scope for action of



those involved, and addressing the politics of memory and disputes about how best to commemorate the victims, may play a part in sensitizing Commission staff to its responsibility in safeguarding human rights and help to develop empathy with people enduring human rights violations today.

The villa of the Wannsee Conference.

Source: House of the Wannsee Conference.