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The Hitler State

The foundation and development of the
internal structure of the Third Reich

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the mass extermination of the Jews. For this responsibility, the planning and carrying out of the 'Final solution to the Jewish problem', also fell on Himmler in 1941.⁴²

When later the Reich Governor and Gauleiter in the Tyrol and Carinthia also made use of the RKF's right of seizure in their capacity as agents of the RKF, in order to acquire Church lands for the settlement of ethnic Germans, there was a sequel which was typical of the effect of secret Führer decrees. The Church offices had complained about the seizure to the Reich Administrative Court in Vienna because they were unaware of the Führer decree of 7 October 1939, and for this reason the action of the Reich Governors was bound to seem illegal. The administrative officials were thus put in a position where they had to rule on complaints which (as the Senate President of the Vienna Administrative Court subsequently informed the Reich Minister of the Interior) 'quite rightly charge the authorities concerned . . . with breaking the law', although those authorities were in fact covered through the secret decree. The President of the Administrative Court emphatically pointed out that 'quite intolerable consequences for an orderly administration' would arise if decrees changing the law (like the Führer decree of 7 October 1939)⁴³ were 'not published' and were issued 'only as internal regulations' but 'which were still supposed to be legally binding outside too'. The Court, the Senate Presidents concluded, had temporarily set aside the normal procedure in order to give the Reich authority concerned the opportunity to 'regularize the application of . . . Führer's decree' through a 'supplementary announcement'.⁴⁴ Other secret Führer decrees which had been issued meanwhile and which had the effect of changing the law – for example the decree of 15 January 1943 concerning the general mobilization of labour, which contained the provision that in taking the measures concerned the Supreme Reich Authorities could 'get round any obstructive legal provisions',⁴⁵ caused similar problems.⁴⁶

The Euthanasia order and the 'Final Solution of the Jewish problem'. The legal and organizational preconditions

The confidential Führer decree which authorized the RKF to 'eliminate' alien population groups without actually spelling out the details was in essence already no longer a decree on organization but a command to fight and to destroy, delivered to an apparatus suited to this end.

This was still more true of those other infamous secret orders which Hitler gave after the start of the War for the liquidation of large groups of people, the so-called 'Euthanasia Order', the 'Commissioner Order' and the 'Order for the Final Solution of the

Jewish Problem'. It could be shown from the example of the RKF decree that this sort of command, in so far as the content was kept secret from the regular organs of administration or could be disguised, was likely to be most easily carried out when an extraordinary apparatus directly subordinate to the Führer was available, and which was tightly organized enough (like the area of operations of the RFSS in the 'incorporated Eastern territories') for the execution of the secret measures to take place without any particular attempt to inform and to involve the normal state organs. This had no longer been the case for a considerable time within the Old Reich. Certainly not to the extent that it was true of occupied Poland, especially since in Germany there was much less guarantee of maintaining secrecy or suppressing news about local measures of coercion than there was among the police-controlled population of Poland. For this reason it is worth noting that Hitler involved the RFSS only secondarily in the measures which were set in motion at about the same time as the RKF decree, for putting to death the mentally ill in Reich mental homes. But in this instance all the main levers for carrying out the policy were operated by persons and offices directly subordinate to the Führer. Thus Hitler's personal physician, Karl Brandt, and Philipp Bouhler, the Chief of the Führer's Chancellery, were appointed as the main agents for this action, to whom the Führer also gave a secret written 'authorization' backdated to 1 September 1939.⁴⁷ The real moving spirit from Bouhler's staff was the latter's deputy, Oberdienstleiter Victor Brack, to whose 'Central Office' also went requests to grant 'euthanasia' for the incurably ill. The killing in such a case of an incurably sick child in a Leipzig hospital even before the War, occasioned by Hitler's order through Brandt, Brack and his colleague Dr Hefelmann as well as other doctors positively inclined towards euthanasia, subsequently turned out to have been Hitler's starting-point for the general action initiated after the outbreak of the War, when the extent of the process had little to do with the original meaning of euthanasia. Brandt and the colleagues of Bouhler sought out a small group of doctors in favour of euthanasia, who were appointed in the Führer's Chancellery and 'licensed' with specific promises of immunity from punishment on the basis of the secret paper originating from Hitler. They were enjoined to strict secrecy and authorized as 'experts' under the cover name of the 'Reich Working Group for Asylums and Hospitals'⁴⁸ to select the sick people who were to be killed. The head of the section for Asylums and Nursing Homes in the Reich Ministry of the Interior's health division (Dr Linden) directed by the former S.S. doctor and Reich Health Leader, Dr Leonhard Conti, took over the 'registration' of the sick in the various asylums through the despatch of innocent-looking questionnaires. A cover organization recruited from the S.S. transport fleet, the 'Welfare Transport Com-

pany for Invalids Ltd' carried out the 'transfer' of those selected to be put to death to institutions specifically allocated for the process of elimination (above all Hadamar in Hesse, Hartheim near Linz, Grafeneck in Württemberg, Sonnenstein in Saxony). Chemists from the Institute of Criminal Technology of the Reich Criminal Police Office tried out gassing techniques with carbon monoxide,⁴⁹ and a further cover company organized by the Führer's Chancellery (Welfare Foundation for the Benefit of Asylums) was responsible for the over-all financing. Only a small circle of about fifty people (doctors and technicians) were kept fully informed of the extent and scope of this action in the course of which some 70,000 people (by no means all of them incurably ill) were put to death. The directors of the asylums were merely informed of a 'transfer' of those selected for the purpose of special observation and treatment. Of the Ministers of the Reich government apparently only Lammers had been informed directly by Hitler about the secret authorization of the doctors, but also apparently in a way which could encourage the belief that it concerned clear 'cases of euthanasia'.

There is a manifest politico-ideological connection between the euthanasia action and the laws on sound marriage already issued in 1933 and 1935, which introduced legal sterilization and the termination of pregnancy in cases of hereditary illness. Equally evident, however, is the difference between the procedures. Whereas in the one case special administrative and court authorities were authorized with the legally prescribed process of submitting proposals and making decisions, the cover organizations and secret authorizations concerned with the euthanasia action were deliberately constructed as instruments outside the law, which indeed functioned through bypassing the state authorities set up by the National Socialist government itself. It must not be forgotten that even the legally regulated process of sterilization and termination of pregnancy afforded a great deal of latitude of judgement for official doctors and the courts concerned with healthy stock, and in view of the grave consequences here had removed these 'laws' a long way from the principle of law and the protection of the law. In this respect the form of National Socialist legislation itself paved the way for the later state of lawlessness. The collapse of administrative and departmental cohesion (in this case making the health administration independent, already undertaken in 1934,⁵⁰ and the increased subordination of the health division of the Reich Ministry of the Interior), the use of plenipotentiaries and offices directly subordinate to the Führer (Dr Brandt, the Führer's Chancellery, the Criminal Police Office from the RFSS' authority) and the earlier general devaluation of the legislative process through the practice of authorizations from the Führer, constituted the essential preconditions of the euthanasia action. The fact that this had to be

abandoned in 1941 because complaints from the public, the judiciary and the administration multiplied, and individual Ministers (Gürtner, Lammers) insisted to Hitler on a legal ruling, can also be viewed as evidence for the fact that constitutional developments in the Führer state had not yet gone far enough within the Old Reich for such actions to take place 'without friction'. The extraordinary apparatus of the Führer's authority was bound to clash sooner or later, and thus to generate conflict, with the administration and judicature within what were still bound to be close legal restraints in the Old Reich.

This experience undoubtedly contributed to the fact that the latter mass murder of the Jews was shifted to remote Polish and Soviet Russian areas and to the especially enlarged 'jurisdiction of the Reich S.S. Leader' which existed there. Thus the staff of 'gas technicians' set up for the euthanasia action under the guiding influence of Victor Brack were employed once more. Otherwise the procedure was much the same; a small circle of S.S. leaders who were fully informed, were sworn to secrecy and 'authorized' with specific reference to the 'effect of law' of the Führer's will;⁵¹ and apart from this only partial information and involvement for other offices. The preceding dissolution of governmental and administrative unity (for example in the form of the Germany Division of the German Foreign Office) was also 'maintained' in this instance. The emergency apparatus directly responsible to the Führer represented by the Security Police and the S.S. had become big enough and sufficiently independent itself to take charge of carrying out the mass crimes. And the offices of the state administration which were still bound by the law were sufficiently split up and largely bereft of their security and self-confidence through the lasting effects of competition with authorities directly subordinate to the Führer, through the infiltration of Party personnel, ideological training etc., and accordingly had become susceptible to manipulation. Thus they could be saddled with what were often partly technical, legislative and executive motions (without being fully informed of the ultimate aims of the leadership) necessary to the development of the over-all process of 'the final solution of the Jewish question'.

This criminal mass destruction of the Jews must not be seen simply as the continuation of the legal discrimination against Jews after 1933. Procedurally this was in fact a break with former practice and in that respect had a different quality. All the same, the previous laws and decrees which step by step had further discriminated against the Jews in Germany, had subjected them to emergency laws and had condemned them to a social ghetto, paved the way for the 'final solution'. The progressive undermining of the principle of law through measures cast in legal form finally resulted in an utterly crude, lawless, criminal action.

paigns. As a result, the number of death sentences imposed by the civil Courts rose steeply. The figures for 1938 to August 1944 from the files of the Reich Ministry of Justice provide the following balance sheet (Table 10.2) of death sentences confirmed for the Reich (excluding the Protectorate).³¹

The genesis of the Special Criminal Decree for Poles and Jews which perverted the law to an extreme degree³² reveals clearly enough the familiar mechanism of this development. The security police were able under wartime conditions first to extend considerably what had been until 1938/9 the still relatively limited area covered by the state of emergency under its control in the Old Reich, and then in the newly annexed areas.³³ After this the judicial authorities had the greatest difficulty even in being allowed to conduct criminal prosecutions in these new areas, alongside the security police and the ruling organs (largely staffed by National Socialist functionaries) of those civilian government heads who were directly responsible to the Führer. When the principle of judicial authority was successfully established in those provinces governed according to the methods of the 'Master Race', it was at the cost of an almost total erosion of legal procedure and legal protection. As before, the judicature was only barely able to slow down the course of events and certainly could not stop it.

During the War Hitler sharply criticized the lawyers in his 'Table Talk', and had even on occasion called them 'parasites' and 'criminals'.³⁴ After the death of Gürtner (29 Jan. 1941) he felt that the time had come for a public humiliation of the legal authorities. Thus he had it formally confirmed through a proclamation in the Reichstag session of 26 April 1942 that he had 'the legal right' to dismiss from office 'Judges who clearly fail to recognize the mood of the hour' and this 'without regard to so-called vested rights and without going through the usual procedures'.³⁵ German Judges felt this act to be a 'brutal attack' and so did the acting Minister of Justice, Schlegelberger. This was followed on 20 August, with the involvement of Bormann and the Party Chancellery, by the appointment of the 'old Party comrade' and former President of the People's Court Thierack as the new Minister of Justice. Thierack's assumption of office and the simultaneous transfer of Freisler to the People's Court introduced the final and most extreme phase of the sell-out of the judicature.

Under Freisler's direction the People's Court became, especially with the trial of the plotters of 20 July 1944, the prime example of Party justice along the lines of the Stalinist show trials. And Thierack deliberately tried to get Hitler to regard the judicature in a more favourable light by voluntarily giving up some of the responsibilities of justice which had until then been successfully defended against the attacks of the S.S. and the police. Thus he came to an agreement with Himmler whereby several thousand criminals

in the judicature's prisons were transferred to concentration camps (chiefly Mauthausen) where they were 'worked to death' within a short while. In addition the new Minister thereafter allowed criminal prosecution of Polish and Soviet Russian civilian workers in the Reich to be carried out solely by the police without involving the judicature. 'Criminal trial in court', so the subordinate police officers were informed on 30 June 1943 by Kaltenbrunner, the Chief of the RSHA newly appointed after the attempted assassination of Heydrich, would only take place 'if the police authorities require the holding of such a criminal trial', if it seems appropriate 'for reasons of public opinion' and 'if it has been established beforehand that the Court will in fact impose the death penalty'.³⁶ This complete reversal of the relationship between police and judicature corresponded to a roughly contemporary suggestion made by Himmler to Bormann,³⁷ when the Reich S.S. Leader criticized the 'mistaken attitude of the forces of justice who were active in the Eastern territories', who did not see their duty 'to ensure the interests of the German people in this area but felt that they were there to make "law"'. He (Himmler) therefore suggested that a 'clear line of demarcation' should be drawn and care should be taken 'that criminal law protection against Poles and members of other races in the East is exclusively the concern of the police'.

The link between the progressive expansion of the authority of the S.S. and the police apparatus unrestricted by the law, and the simultaneous radicalization of the racial policy of the National Socialist leadership during the War, can be seen here time and time again. But along with the other special powers and special agencies directly subordinate to the Führer (which increased rapidly in the second half of the War), the disruptive arbitrariness engendered as a result inevitably had its effect on the over-all policy and constitutional order of the National Socialist system. The rule of the state of emergency spread from the edges of the Reich towards the centre and here too it contributed towards further undermining legal security. The excessive and irrational rise in the use of force during the last stages of the War finally threatened the control of the National Socialist system itself. But this merely reflected the agony of a regime seeking to prolong its existence through the desperate 'energy' of such a resort to force.

Notes and references

1. On this cf. Ernst Fraenkel, *The Dual State. A Contribution to the Theory of Dictatorship* (New York, London, Toronto, 1940).
2. Decree of the Reich President for ensuring immunity from criminal prosecution, 21 March 1933 (*RGBl*, I, p. 134).

3. Decree of the Reich President to prevent malicious attacks against the government of National Recovery, 21 March 1933 (*RGBl*, I, p. 135).
4. When the draft of the law against malicious gossip was presented in the Reich cabinet, State Secretary Schlegelberger said on 21 March 1933, according to the protocol of the meeting, 'that the Reich Ministry of Justice, particularly himself who was head of the office at the time [Minister Gürtner was ill], felt that the attacks against the judicature coming from the cabinet were very harsh. It was self-evident that the judicature would give the utmost support to any government, but particularly the present government of national recovery, in any efforts aiming to protect the state against high treason and treason and such similar tasks.'
5. According to the *Statistisches Jahrbuch für das Deutsche Reich* (54. Jg., Berlin, 1935), pp. 530f. From this source it is also apparent (p. 329) that a total of 5,365 actions were brought in the Special Courts in 1933 (4,794 of these for misdemeanours and 571 for crimes) and that the Special Courts passed 3,853 sentences. In 1934 there were 4,021 actions brought before the Special Courts (2,944 for misdemeanours and 1,077 for crimes). Overall 2,767 sentences were passed. The *Statistisches Jahrbuch für das Deutsche Reich* contains no figures on the jurisdiction of the Special Courts in later years.
6. Thus, for example, the National Socialist state government in Bavaria issued a law 26 April 1933 for combating corruption and informing (Bavarian *Gesetz- und Verordnungsblatt*, p. 123) which clearly infringed on the criminal law rights of the Reich and had to be revoked on 24 May 1933.
7. Figures according to the information from Walter Wagner, who will shortly be bringing out the results of his work on the findings of the People's Court.
8. One basis for judging this is provided by the complete reports of the Bavarian Political Police (BPP) for the period 30 March to 2 November 1936. During this period 1,791 people were arrested by the BPP, an unusually high proportion for petty offences which were generally not serious enough to prosecute ('behaviour injurious to the state', 'insulting the Führer', 'bringing the swastika into contempt', etc.). On this cf. M. Broszat, 'Nationalsozialistische Konzentrationslager 1934-1945', in *Anatomie des SS-Staates*, Bd 2, p. 46 ff.
9. Reich Minister of Justice Gürtner requested such a demarcation in his letter of 22 August 1936 to the Reich S.S. Leader and Chief of the German Police. In his reply (via S.S. Gruppenführer Best) of 7 October 1936 the S.S. Leader maintained on this point that in specific cases 'the penalty of preventive custody was also applicable for punishable offences'. Cf. *Akten des Reichsjustizministeriums*, BA: R22/1467.
10. There is various material on this in *Akten des Reichsjustizministeriums*, BA: R22/1467. Of particular interest is the report of the public prosecutor at the Higher Land Court in Dresden to the Reich Minister of Justice, drafted 26 June 1936, concerning his agreements with the president of the State Police Office of Saxony regarding a 'close' and 'profitable collaboration' between the public prosecution and the Political Police in political crimes. Also characteristic was the request

- of Ministerialdirektor Dr Crohne, the responsible division leader for political crimes in the Ministry of Justice, to the Gestapo on 13 April 1938, for the latter 'to examine closely whether the action of preventive custody in matters of high treason . . . which was felt by the convicted person and his supporters to be an additional punishment, was absolutely necessary as a preventive measure'.
11. According to the report of the Gestapo to the Reich Minister of Justice 7 March 1937 (BA: R22/1467).
 12. On this cf. also the later testimony of the then President of the Hanseatic Supreme Land Court in Hamburg, Curt Rothenberger, who stated that in Hamburg after the Röhm affair there had hardly been any more interference in justice by the Party and Gestapo. It was only when war began that judgements were increasingly changed by the police (BA: 7 S 477).
 13. Cf. the protocol on the talk (BA: R22/1467).
 14. Ibid.
 15. Ibid.
 16. Letter of the deputy of the Leader of Reich Lawyers to the Minister of Justice, *ibid.*
 17. Cf. the official diary of the Minister of Justice Dr Gürtner (Nuremberg Documents PS-3751).
 18. Ibid., entry of 29 May 1935.
 19. Details on this in *Justiz im Dritten Reich. Eine Dokumentation*, ed. Ilse Staff (Fischer-Bucherei 559, Frankfurt-on-Main, 1964), pp. 118ff.
 20. Ibid., pp. 122ff.
 21. Thus in the area of the Higher Land Court of Hamburg in 1933 a total of 31 (mainly Jewish) judges and public prosecutors were dismissed and 44 Jewish lawyers were excluded from the Bar Association. Cf. Werner Johe, *Die gleichgeschaltete Justiz. Organisation des Rechtswesens und Politisierung der Rechtsprechung 1933-1945, dargestellt am Beispiel des Oberlandesgerichtsbezirks Hamburg* (Frankfurt-on-Main, 1967), pp. 66ff. In the district of the Higher Land Court at Hamm in 1933, 18 and, on the basis of the Nuremberg Laws, a further 13 Jewish Judges were dismissed; in addition 13 Judges were disciplined for political reasons (enforced retirement or demotion to a lower office). Cf. Hermann Weinkauff, 'Die deutsche Justiz und der Nationalsozialismus', in *Die Deutsche Justiz und der Nationalsozialismus*, Pt I (Stuttgart, 1968), p. 102.
 22. Details of this development in H. Weinkauff, *loc. cit.*, pp. 102ff.
 23. Cf. Albrecht Wagner, 'Die Umgestaltung der Gerichtsverfassung und des Verfahrens und Richterrechts im nationalsozialistischen Staat' in *Die deutsche Justiz und der Nationalsozialismus*, Pt I, pp. 207f.
 24. Ibid., pp. 228ff.
 25. Text in the collection of decrees for official reference issued by the Reich Criminal Police Office, *Vorbeugende Verbrechensbekämpfung*, December 1941, Bl. 41.
 26. Albrecht Wagner, *loc. cit.*, p. 281.
 27. This case is fully documented in *Akten der Reichskanzlei*, BA: R43 II/11506. Especially typical in this connection is a letter sent by Lammers to Gürtner dated 23 November 1938, in which the former explained that he wanted to draw attention to the Führer's opinion, 'since the interpretation which the Führer and Reich Chancellor gives, as ultimately the sole law-maker of the Third Reich, to a law which he has issued seems of particular importance to me'.
 28. The Reich Ministry of Justice was still at pains at this time to rebut this criticism. Cf., for example, the reply appearing in *Deutsche Justiz* on 27 January 1939, p. 1750 to thirteen attacks by *Das Schwarze Korps* in the years 1937/8. In February 1939 Gürtner also made an effort to get Himmler personally to stop these attacks (IfZ: Himmler-files, folder 47).
 29. *Nürnberger Juristenprozess*, III, Protokoll(d), p. 4460.
 30. Decree concerning measures relating to the constitution of the Courts and the administration of justice (*RGBl*, I, p. 1758). An exact demarcation of jurisdiction in criminal procedures and especially of the jurisdiction of special Courts came later through the so-called 'Jurisdiction decree' of 21 February 1940 (*RGBl*, I, p. 405).
 31. IfZ: Fa 103.
 32. Cf. on this M. Broszat, *Nationalsozialistische Polenpolitik*, pp. 137ff.
 33. In the Old Reich too, Himmler and the Chief of the Security Police (Heydrich) were empowered to take extraordinary measures at the outbreak of the War. On these grounds the Chief of the Security Police issued a circular which was sent to the organs of the Security Police which called for ruthless action against offences against the people and the state and which stated that 'on orders from above if need be' there would be 'brutal liquidation of such elements' (BA: Slg Schumacher; no. 271). As a result even in autumn 1939 isolated summary executions were already being carried out by the S.S. in the concentration camps of the Old Reich of criminals, war saboteurs and the like. Alarmed by these episodes, Minister of Justice Gürtner urgently requested Hitler at the end of September to clarify 'whether crimes within non-occupied territory [Reich territory] are to be punished according to the rules of war, or by the police without trial and sentence'. Hitler let it be known obliquely via Lammers on 14 October 1939 that 'in isolated instances' he could not forgo giving the Security Police orders of this sort 'because the Courts (military and civilian) had not shown themselves able to adapt to the special needs of war' (Nuremberg Documents NG-190).
 34. Cf. the conversation of 22 July 1942. Henry Picker, *Hitlers Tischgespräche im Führerhauptquartier 1941-2* (Bonn, 1951), pp. 259f.
 35. Text of the Hitler speech and the Reichstag resolution moved by Göring after it in *Völkischer Beobachter*, 27 April 1942.
 36. Contained in *Allgemeine Erlass-Sammlung des Reichssicherheitshauptamt*, 2 A IIIf, p. 131.
 37. Letter of 8 July 1943 (Nuremberg Documents, NG-2718).

Conclusion

The complex structure of the National Socialist regime, its short-lived but revolutionary existence, the demagogic nature of its ideology, and the lasting processes of social and socio-psychological deformation which it touched off, the contradiction between this régime's shapelessness and the extraordinary development of its power – all this defies any simple explanation. Nor can the present account provide such an explanation. But at least a few of the insights which have been picked up and illustrated can now finally be summarized and formulated in more general terms. The main purpose in doing this will be to examine the effectiveness and development of National Socialist policy in conjunction with the régime's structural features and its change, and to illustrate their interaction.

Success in overthrowing the Weimar Republic and in establishing the Hitler regime was primarily due to the collaboration between the conservative opposition to democracy and the National Socialist mass movement. The prelude to 30 January 1933 confirms that in view of the distribution of power then pertaining in Germany and the severe crisis afflicting the political and social system under the Weimar Republic, it was impossible either to revert to an authoritarian state on the old model (without the element of social integration afforded by a popular movement), or for National Socialism to seize power on its own (without the conservative supports in state and society). In that respect the alliance of 30 January was in line with contemporary anti-democratic ideologies which ever since the First World War had already been proclaiming and predicting in more or less vague terms ('conservative revolution', 'revolution of the right' etc.) the restoration of élitist and authoritarian principles of order by means of a total national revolution. This contradiction between modern techniques of action and restorative ideological elements, the half-revolutionary, half-reactionary relationship to the traditional state and social order, had appeared in the National Socialist movement from the outset.

The fusion of authoritarian and totalitarian trends had intensified as a result of the expansion of the NSDAP to a national mass Par-

ty after 1930. The alliance between the Swastika and the Black-White-Red had already been anticipated within the Party through the mass influx of middle-class protest voters before it became the foundation of the Hitler government on 30 January 1933. Of course subsequent developments quickly exposed the antagonism between these dissimilar elements and partners. Thus far at least the distinction of type between authoritarian and totalitarian governments is well-founded. But the attempt to bring about this uneasy alliance in spite of this, and the equilibrium which lasted in practice until about 1937/8 between the stabilizing factors of an authoritarian and regulated state and the totalitarian forces of the National Socialist movement, had for all that a constitutive importance for the Third Reich and made the consolidation of the Hitler state possible in the first place. It was only on the basis of this stability in the first instance that the later expansion of power and process of radicalization took place, which was determined by the growing superiority of the totalitarian forces of the regime.

The first years of the Third Reich, when the question of how the dualism between the 'movement' and the governmental dictatorship would develop had not yet been finally resolved, show the working of this dualism particularly clearly. The essential features of the thoroughly contradictory organizational, legal and power structure of the Hitler regime can only be properly understood with this antagonism in mind.

It was of crucial significance that the so-called seizure of power in the years 1933/4 oscillated between making revolution and halting the revolution. The structure of power and the allocation of authority which developed in this stormy first phase were not the outcome of any clear concepts or united action, but rather of numerous separate, sometimes overlapping but seldom co-ordinated and frequently opposing processes, which stemmed from the Party revolution from below, the expansion of the central state dictatorship from above and the often more or less spontaneous co-ordination and adjustment in social and public life outside politics. The fact that this stormy early phase was brought to a close with the establishment of the absolute power of the Führer in the summer of 1934 meant that the arrangement for the internal shaping of the Reich, which was still a long way from being clarified and resolved, was interrupted and both the revolutionary tendencies within the Party and those forces of the state of order which had grown stronger from the middle of 1933, were blocked. The share-out of power reached at this point was more or less 'frozen' for the time being with its contradictions and contrary tendencies. Examples of this were the tangled arrangements for the relationship between the Party and the state which had arisen in various areas of public and political life in 1933/4, as evidenced by the hostile or mutual coexistence of separate state and Party offices at the local and

Kreis level and in certain political departments; the personal union of state and Party office at the Land and province level or else with individual Ministers and Reichsleiter of the Party; the institutional interlocking of Party and state, for example in the sphere of the S.S. and the police or the propaganda offices; the Party's legal right to be consulted over civil service policy and governmental legislation etc. But these different patterns of the relationship between Party and state, which could also entail the enlargement and increase of the state's authority, did not determine by themselves the nature of the structure of government which emerged from the 'seizure of power'. The current organization of the government and administration had already been significantly altered in other ways in 1933/4. That is to say by means of new central Reich Authorities, in part directly responsible to the Führer, in accordance with the special political intentions of Hitler's government (Propaganda and Aviation Ministries, Inspector for Road Building, Leader of the Reich Labour Service); by means of new branches of the executive and of the judicature (Trustees of Labour, Special Criminal Courts, Courts for the entailed farms and for ensuring sound heredity); by separating previously subordinate branches of the administration (Political Police, Health Offices) and through new types of public law organs with combined planning, co-ordinating and self-governing functions (Reich Food Estate, Reich Chamber of Culture among others).

This mingling of official, semi-official and Party political institutions and responsibilities, which also tended to mix the state bureaucratic organization and the structures of the associations of private business with the Führer principle derived from the National Socialist movement, made the boundaries between the state, society and the Party fluid, and created, as it were, a totalitarian partnership between them. The complex institutional traits of the regime which arose in 1933/4 reflected the pluralism of forces and centres of action which were trying during this phase to establish their own spheres of influence and power, their own particular interests and their own views on the nature and direction of the new regime. Just as the NSDAP's mass movement had already begun to infiltrate broad sectors of society and public life by setting up numerous auxiliary organizations, offices and associations and through its entry to the parliaments, Land and municipal governments, so the process of co-ordination in 1933 constituted a new, still more intensive form of fusion and confrontation between the National Socialist movement and the old leadership forces in state and society. The speed and smoothness with which this co-ordination generally took place, provided certain 'essentials' of National Socialism were acknowledged and the corresponding conclusions were drawn (the elimination of democratic procedures, and of Jewish, Marxist, and left-liberal forces of leadership), show

that very often it was more a matter of readjustment than a revolutionary upheaval. But this also resulted in a significant proportion of the National Socialist movement being incorporated in the nominally co-ordinated, new centralized associations. Co-ordination signified that the social forces were contained but very often at the price of a simultaneous dilution and a further softening and splitting up of the National Socialist movement.

There was both necessity and method in this development in so far as only confrontation and collaboration with the powerful specialists and experienced established forces of leadership could bring about the transformation from propaganda movement to a governing organization. There was pressure on both sides for collaboration and this was also decisive not least in the Ministries and the state administrations. Collaboration offered those nominally co-ordinated and established leadership forces and specialists who were prepared to 'co-operate loyally' the possibility of recommending themselves to their new masters through their particular ability and activity, of contributing their own ideas in order to fill the vacuum left by the National Socialist programme, or else of carrying out their proposals for reform with the help of National Socialism. At the same time this collaboration provoked an expert screening and replacement of National Socialist functionaries and filtered from the vague aims of the National Socialist ideology those elements which were attainable and practicable in the given circumstances. The tactic of allowing individual scope and experiment, which Hitler had already successfully adopted towards the Party before 1933 in order to encourage initiative, spontaneity and activity, was now applied over and over again but chiefly in the realm of practical government measures, of technical and economic management and organization. The relatively generous nature of the process of co-ordination for the liberal middle class and conservative groups in state and society was a precondition for a successful National Socialist take-over of power. Because it was only with the aid of those 'co-ordinated forces' that demagogic activity could successfully be transformed to practical control. Terrorist intimidation on the one hand, to demonstrate unmistakably the new masters' claim to leadership, and halting the revolution on the other hand to prove the determination to govern effectively even at the cost of the 'old fighters' – the seizure of power swung between these two interdependent poles and in so doing helped the Hitler regime to succeed:

The marriage of an authoritarian system of government with the mass movement of National Socialism seemed to be successful in spite of considerable friction over key points, and also to have overcome the shortcomings of the authoritarian system. With the aid of different auxiliary organizations of the Party and the subsidiary organs which emerged from the process of co-ordination, the

regime considerably extended its influence over the public and society in general without requiring wholesale standardization and bureaucratization. In this way it proved possible for the power of political and social forces to be magnified and this could then be concentrated on certain politically desirable focal points. The stimulus to the national economy and the reduction of unemployment which was achieved in this way even in 1934, created a reservoir of popular faith which was crucial in the early phase. At the same time the intensity of the national self-image and propaganda, however vague its positive 'contents' might have been, increasingly drew the individual towards the forum of national events and helped to loosen his social, familial and confessional ties. This propaganda, as well as the proficiency drive which the regime stimulated, and the greater mobility between the social classes already guaranteed through the network of auxiliary Party organizations, caused the *individual member of the race* to identify himself with the whole in a way which he had been urged in vain by reasoned arguments as a *citizen* of the Weimar Republic. But it was precisely this willingness to identify and to make 'self-sacrifices' that was deliberately aroused by the National Socialist regime with a mastery of psychology (political education through intensive national appeals and compensation for lack of social status through the wholesale provision of *völkisch*, national status symbols), which increased the regime's power to integrate and its suggestivity, and created the psychological climate which enabled the National Socialist leadership to demand a far greater national commitment.

The transfer of Hitler's absolute control as leader over the Party to the government, the state and the nation was another extraordinarily important integrating factor. As Hitler ceased to be merely the leader of the Party (the installation of the 'Führer's Deputy' underlined this aspect) the charismatic 'belief in the Führer' appeared to many civil servants as well as to Reichswehr officers as an element for associating the old authoritarian state (with the personal rule of the monarch) with the National Socialist Führer state.

By the end of the period of the seizure of power, in summer 1934, the Party had largely been converted to its new role of giving practical encouragement to increased productivity. Its most able functionaries had taken over state departments and from then on these defended the state's authority. The Party summit, as before politically and organizationally weak (separate Reichsleiter, Führer's Deputy, Reichsorganisationsleiter) had secured only a very limited right of say in the government. The revolutionary system of Commissioners had been dismantled, the political pressure of the S.A. mass organization had been brutally eliminated and the revolutionary NSBO had also been largely shunted away from real social policy towards making propaganda and giving advice. Even

the Gauleiter, who had been considerably strengthened in 1933 at the Land and province level, through their personal union with leading state offices (Reich Governor, Oberpräsidenten, Land Ministers, Land Minister Presidents) lost for the time being something of their customary independence when the sovereignty of the Länder was ended and with the 'centralization' of important departments. In foreign policy and economic policy attempts at direct revolutionary Party policy had been thwarted not least on account of the dilettantism of the protagonists concerned. Those rival Party offices which nevertheless survived (in foreign policy: Rosenberg's Foreign Policy Office, the Auslandsorganisation of the NSDAP under Wilhelm Bohle, the Ribbentrop Bureau, the Volksdeutsche Mittelstelle, Göring's Research Bureau etc.) neutralized each other to some extent and had only slight political importance. The quantitative extent of the illegal use of force (preventive custody, concentration camps) had been limited and even in the Jewish question a reversion to legal processes could be detected (the heavy Jewish emigration progressively declined between 1934 and 1937).¹

Conflicts between the Party and the state and between the regime's forces of leadership and institutions admittedly assumed a considerable importance, but the positive benefits to the regime of this rivalry at least balanced the negative results of it. Because the struggle for responsibility and power often left conflicts unresolved (whether deliberately or through diffidence) it could just as easily increase efficiency and power as be destructive. The coexistence and conflict of uncoordinated authorities very often undermined solidarity and uniformity in the exercise of power, but it also led to conflicting personalities, organs and controversial ideas keeping each other in check. Moreover this rivalry produced compromises and mutual arrangements which stabilized the system of government as a whole and the absolute control of the Führer at the top. The dualism between the state of rules and the state of actions in the realm of criminal prosecution was one example of this. The lawless use of terror and the state of emergency for fighting political opponents was considerably reduced from the middle of 1933, although not ended, under the influence of the conservative, authoritarian forces of the regime. The abortive attempts to do away completely with preventive custody and the concentration camps merely led to a 'disciplining of terror' (stricter subjection of the S.S. and the Gestapo to internal regulations), and caused a significant increase in severity of criminal justice. The characteristic attempts between 1934 and 1938 to reach some 'tolerable' arrangement in the conflict between a criminal justice bound by law and uncontrolled criminal prosecution through the Gestapo were in the interests of both sides and for this reason were not wholly fanciful. Here as in other areas efforts until 1938 to resolve the antagonism between the state of rules and the state of actions outweighed the

manifestations of a partially regulated exercise of power. The Party Organization – its structures altered and regulated mainly by means of controls emanating from the Reich Treasurer of the Party – had lost its political impact and seemed well on the way to becoming an auxiliary organ of the state leadership. And the conservative forces of the regime, the armed forces in particular (thanks to rearmament and the reintroduction of general conscription), as well as the ministerial bureaucracy still occupied a strong position purely by virtue of their institutional authority.

The various attempts made in the years between 1934 and 1937 to determine important functions of the new 'authoritarian and total Führer state' (as Lammers put it in a lecture in October 1934)² legally and constitutionally (criminal law, Reich reform, governmental legislation, law on the civil servants etc.) suggest that in this phase even many of the old Hitler partisans thought it was possible to harmonize the authoritarian and totalitarian elements and they tried to do this. And until 1938 the actual substance of National Socialist domestic and foreign policy kept largely within the bounds of traditional German Nationalist and national conservative ideas and aims. And where this was not the case, as in Church policy, the National Socialist extremists and even the Reich Church Minister had to suffer considerable loss of face.

Hitler himself took account of these considerations by generally acting as the 'honest broker' between the authoritarian and totalitarian elements of the regime until 1937/8, and refrained from setting out radical ideological aims both at home and abroad. In contrast to the unambiguous comments made by Hitler before 1933, which criticized the programme of a national policy of revision as utterly inadequate and wrong, Hitler's actual foreign policy until 1938 followed traditional aims and indeed after this, with the agreement with Stalin, the campaign against Poland and war against the Western Powers.

The fact that these were merely 'stages' towards an ultimate goal of quite different proportions was admittedly difficult to detect until 1937 and even later was still concealed from the general public. If one merely assumes that the ideological determining factor, the motive force of the National Socialist regime and personified above all in Hitler, remained basically unchanged and identical from the very beginning and that *only* the tactics and outward appearance changed it is easy to overlook the fact that this 'only' was still of crucial importance for the prevailing condition of the state. This was still determined for the time being chiefly by the current actual and concrete affairs of policy, of government and of legislation and not, or only secondarily, by the long-term aims and secret plans for the future. That was also true even of Hitler, who as a rule subordinated his utopian and ultimate goals to a highly realistic, often cynical political expediency in following immediate aims. It was

precisely because Hitler viewed matters concerning the state system almost solely in terms of present usefulness that government and state under the Third Reich was constantly being reorganized according to what were the most pressing aims of the moment. But this meant that the institutional realities of the structure of government arising from merely tactical and fleeting changes of policy automatically continued. Hitler might make concessions to the Reichswehr and bureaucracy or conversely to the S.S., to Bormann and individual special agents simply to attain certain specific ends, but these concessions could not simply be revoked by a stroke of the pen. The organizational and legal consequences of even tactical directives from the Führer tended to persist.

Here it must also not be forgotten that propagandist concealments are not merely untruthful and unreal. As long as the foreign policy propaganda of the Third Reich stressed peaceful national revisionism and in so doing energetically stressed respect for neighbouring countries and their interests, this affected the consciousness and the constitution of the nation and of the regime. Any propaganda creates reality to the extent to which it is believed and determines the thoughts and actions of the faithful. In November 1938 Hitler himself was displeased with the undesired outcome of his own propaganda. For years he had been forced to talk of peace and as a result a public mood had arisen which no longer reckoned with war. Thus it then became necessary 'to gradually adjust the psychology of the German people' and to make it clear to them 'that some things . . . can only be accomplished by force'.³

As the transition took place to an expansionist foreign and war policy the relative moderation and the conservative and authoritarian restraint and stability of the Hitler regime also came to an end at home. From then on Hitler finally abandoned the attempt to reach a compromise between traditional nationalist and National Socialist aims and methods.

An accelerating process of political aggressiveness and extremism set in, which was closely related to the more rapid regroupings of internal power relationships and jurisdictions and, above all, to the progressive emasculation of the state. The almost panic-ridden anxiety evidenced by Hitler in the years 1937/8 that – after the preceding period of relative moderation – it might not be possible to take off for the great final aims, was not confined solely to foreign policy. Parallel to this was the notion that the internal system of government had to be changed too and orientated more positively towards fighting ends instead of towards governmental and organizational tasks if the 'movement' was not to become bogged down and if the absolute control of the Führer was not to be restricted by bureaucratic governmental apparatuses and rules. Hitler's address to the leaders of the armed forces and of the German Foreign Office attested in the Hossbach Memorandum (5 Nov.

1937) revealed the Führer's will to war and his radical aims, and must have enabled him to see at the same time how much agreement he could expect from his hitherto relatively cautiously treated conservative partners. This was just one of the deliberate provocations and tests of strength which ushered in the new, more aggressive policy course. The ensuing change of leadership in the armed forces and German Foreign Office, the reorganization and intensification of economic planning already initiated through the Four Year Plan (Schacht's resignation), the final ending of collegiate cabinet meetings (February 1938), the rapid growth of concentration camps and armed S.S. units, the simultaneous massive onslaught against the judicature and the bureaucracy, the disavowal and pruning of the authority of the central Ministries in favour of the Governor in annexed Austria who was directly responsible to the Führer, the planned pogrom against the Jews of November 1938 and other roughly contemporary events, show quite clearly that the structure of the regime which had emerged from the process of seizing power and which remained relatively stable in the years following, was now broken in numerous places. The fact that Hitler even reactivated the long dormant terrorist power of the S.A. for the Reich Crystal Night was anachronistic when viewed from the perspective of the stage then actually reached in the reorganization of power, but it was symptomatic of the determination to remove the crust of bureaucratic and lawful consolidation by force. Only then, after the preceding stabilization and extension of power, did the way seem clear for the second phase of the National Socialist revolution.

Here the most extreme consequences of certain mechanisms arising from the earlier amalgamation of totalitarian and authoritarian elements revealed themselves for the first time. Such a 'mechanism' had managed to restrain the utopian National Socialist ideas of a new order and in that respect had facilitated the process of 'co-ordination' and adjustment. But at the same time it led to the selection of the purely negative elements of National Socialist ideology and to their systematization. It was always a hallmark of National Socialist ideology that only its negations were concretely and clearly specified (the struggle propagated against Jewry, against Marxism, pacifism, and the democratic 'system' among others), whereas the proposals for a new order were highly ambiguous and contradictory. Nourished primarily on resentments, anxieties, uncertainties and feelings of hatred, the National Socialist movement had always shown its strength before 1933 chiefly in the fanaticism of the struggle against its enemies and prevailing circumstances. At that time this basically destructive tendency could still be perceived and presented positively as a passionate determination to change the existing and unsuccessful state of affairs, and could be linked with any likely ideas on reform and reorga-

nization in political and social life. To that extent the National Socialist movement before 1933 still shared the 'innocence' and 'openness' of all revolutionary causes. This changed when the organization for government was established. Then the impracticality was revealed of almost all the ideas aimed at reorganizing the structure of state and society. Whenever National Socialist splinter groups or auxiliary organizations tried to realize what were partially conceived aims in 1933/4, they were thwarted by opposing forces. The more or less corporatist ideals of National Socialism, the pursuit of a comprehensive new order for agriculture and for restructuring agriculture, the ideas for reforming the Reich and the proposals for a revolutionary recasting of the army, civil service and judicature – none of these could be achieved. The strength and ability of the National Socialist movement was only sufficient to endanger the existing state of affairs and partially to undermine it. On the other hand, it became apparent with every effort made to realize reforms in specific areas of the political and social system that National Socialist ideas themselves were controversial and impracticable, and for this reason any concrete proposal for change met with massive resistance both within the Party and from those forces in state and society whose partnership and support was vital to the 'Government of National Recovery'. But the less chance there was of converting National Socialism's ideological dogma to the tasks of constructive reorganization, the more exclusively that ideological policy focussed on the negative aspects and aims which primarily affected only legal, humanitarian and moral principles, but which appeared to be socially or politically unimportant.

Since a policy of national regeneration through restructuring agriculture and land reform was not so easily attainable, and since even the state-controlled programmes for increasing the population and for racial hygiene could only operate within narrow limits, then if the basic civil liberties and the bases of civil society were to remain untouched, the population policy and racial policy were bound to be concentrated all the more on the negative measures directed against groups who were socially despised in any case, those with hereditary illness and the Jews. The laws on healthy stock passed in 1933/4, in which Hitler and the Party were heavily involved, enforced the sterilization of the mentally ill and those with hereditary illness, whilst the Nuremberg laws (of 1935) for the protection of the blood – which made marriage and intercourse between Germans and Jews punishable – were almost a substitute for the absence of other revolutionary successes by the Party. They were also cheap concessions which were granted relatively lightly to the fanaticism of National Socialism by the conservative forces of the regime and of middle-class nationalist society. This was repeated on a larger scale later with the National Socialist population policy in the incorporated Eastern territories. The attempts at a

'positive' Germanization of these large areas through the 'addition' of ethnic German stock or through the selection of 'worthwhile nordic stock' were relatively limited both in extent and significance because harsh realities, claims, opposing interests and practical difficulties repeatedly prevented progress and the ideology itself was often a barrier. By contrast the negative side of this 'consolidation of German nationhood' could be widely implemented and with relative ease, e.g. deportation, dispossession and discrimination against the 'inferior' Polish nationality. It was the same in 1934 when the revolutionary power of the S.A. was brutally emasculated but the S.S., which had specialized in terrorizing those already debased 'enemies of the state and people', maintained and consolidated the standing which it had gained in the Political Police in 1933. In the S.S. concentration camps it was not, at that time at least, so much a question – as it was in the case of the S.A.'s comprehensive claim to power under Röhm – of an ideological policy which was bound to upset the appointed bearers of political and social power in the Third Reich, but more a matter of dealing with those who were already divorced from the social and political structures: Marxists, Jews, Bible students, anti-social elements, homosexuals, and criminals.

Although it was chiefly Hitler who on the one hand preemptorily halted the further revolutionary ambitions of the S.A. and of other elements in the movement, and who on the other hand repeatedly diverted the legislation and other measures of the regime towards these negative aims of ideological policy, it would be very superficial to view this development primarily as a consequence of Hitler's personal influence. Hitler simply embodied the 'logic' of the National Socialist movement, whose propagandist and political *raison d'être* had always been to preach revolutionary renewal whilst at the same time as far as possible pleasing all the groups and elements of middle-class society. The stereotyped negations of this ideology had always been the one thing on which the 'extremism of the middle' could agree, and which allowed it the illusion of a community of purpose: the inflation of its own worth, the rejection and defamation of all that was foreign and 'abnormal', of everything which was out of tune with the dictates of petit-bourgeois values of order and attainment.

However, the selection of the negative elements of the ideology (these alone were realized and the other aspects remained the subject of propaganda and wishful thinking) which occurred during the process of seizing power and in the course of the Third Reich's subsequent development, meant that the hitherto purely demagogic anti-feelings and ideologies were then institutionalized and thus systematized and perfected. And this was one outcome of the fusion of the ideological movement of National Socialism with the structural principles of an authoritarian, absolutist, bureaucratic

organization. The link between the S.S. and SD and the Political Police is the prime example of this. Hostile groups and complexes (from Jewry to Freemasonry) which had become stereotyped ingredients of the ideology, not least because condemnation of these was necessary for psychological reasons, now became a matter for the administration. The addiction to pogroms and the activism and spontaneity which had largely characterized the S.A. terror in 1933 was progressively eliminated. The spectre of the 'Jewish question' and other matters concerning enemies and parasites were now tackled rationally, technically and bureaucratically. But since the practical (rather than the propagandist) activity of the ideological movement was almost exclusively geared to these negative aims, the only conceivable further development had to be by way of a continued intensification of the measures directed against Jews, the mentally ill and anti-social elements etc. But discrimination could not be stepped up *ad infinitum*. As a result the 'movement' was bound to end up by wreaking physical destruction. The mass murder of the Jews was no more planned from the outset than the preceding and progressive use of legal discrimination against Jews. Here, as in the prosecution of the irrational foreign policy goal of *Lebensraum*, the National Socialist leadership was unable to deflect the consequences of their dynamic force. On the contrary it was typical that the ideological figment of the 'Jewish question' was resorted to again and again and was tackled by repeated partial 'solutions' until the only step left was the 'final solution'. But to carry out this ultimate perversion of the ideological movement required the institutionalized dogmatism for combating the enemy – such as had been bred in the S.S. and Security Police. Here was an apparatus which 'under cover of darkness' finally exterminated a foe which had once been necessary on grounds of propaganda by means of a technically versed 'pest control' which was as efficient as it was cold-blooded. This was the lethal and at the same time paradoxical outcome of an anti-Semitism which had once served as a popular propaganda device.

The obsession of foreign policy with the arch enemy Bolshevism corresponded to the focussing of the National Socialist combat movement at home on the Jews and other 'national parasites'. Here again the real ideological opponent was one who did not belong to the established family of nations. Just as the Jews had been an easy target for aggression at home and the stimulus for a far-reaching incitement and mobilization of forces, so the Soviet Union, standing outside the concert of European powers and ostracized as an alien body, was believed to provide the best target for pursuing an imperialistic expansion of living-space unpunished and without risk.

The loss of momentum which the National Socialist leadership had to endure as the unavoidable consequence of the seizure of

power and the consolidation of the regime drove them to return time and time again to this handful of hostile aims. As in the case of the anti-Jewish measures, however, the constant harping on the concept of living-space was bound to lead to a progressive escalation of an aggressive foreign and war policy, which was more and more remote from the earlier rationality of foreign policy decisions and increasingly subject to an irrational ideological fanaticism. But even here the actual institutional and structural development of the regime played its part.

As long as the organizational coherence of the various branches of the National Socialist regime was to some extent preserved, as long as the Führer's will was not completely remote from the state and the government and there was a minimum of all-round readiness to co-operate and compromise between the rival authorities, leadership groups and apparatuses, a certain degree of rationality, control and self-regulation was guaranteed. But the growing decline of the regime's centralized character and its progressive splintering into new centres of activity that tended to devour neighbouring authorities and make themselves indispensable according to the law of motion underlying the leadership principle, increasingly disrupted any rational over-all organization of government and reinforced the particularist egocentricity of the respective departmental values and ideologies.

The prevailing tendency to resort to expediency constantly extended the regime's institutional jungle after 1938. As time passed the Third Reich was more and more burdened with the elements and relics of *ad hoc* authorities and with their offices and organizations, which owed their existence to considerations of expediency that no longer applied. Improvisation led to Nemesis. Because of the multiplicity of conflicting forces the Führer's will (even when Hitler had something different in mind) was ultimately only able to influence events in this or that direction in an uncoordinated and abrupt fashion, and it was certainly not in a position to watch over and to curb the new organizations, authorities and ambitions which developed as a result. The institutional and legal results of the intermittent orders and decrees of the Führer became increasingly unfathomable and clashed with later authorizations granted by him. Even as organizational shells devoid of political importance they threatened the uniformity and orderliness of the exercise of power and the organization of government. This is why it would also be impossible and illusory to provide a diagrammatic sketch of the organization of the National Socialist regime in the form of a chart for the period after 1938. Unless, that is, it were possible to discover a means of showing how on a chart of such nominal institutions the real source of power and the actual decision-making changed from case to case.

But the more the organizational jungle of the National Socialist

regime spread out the less chance there was of restoring any rationally organized and consistent policy-making and governmental process. The mushrooming of institutions, special powers and specific legal arrangements, which caused an increasingly bitter struggle for protection and favour as well as a steeper decline in rational policy-making and allocation of responsibilities, led to the establishment in each case of different techniques of organization and this, in turn, contributed to a speeding up of the 'movement' and a radicalization of measures. To suggest that the development of National Socialist policy only consisted in steering towards and carrying out prefabricated long-term ideological aims in small doses is an over simplification. Like the mass terror in spring and early summer 1933, the growing anarchy and resort to violence backed up by secret orders and special authorizations during the War was not based on a regime where power was totally controlled either. On the contrary it took place amidst a progressive division of power, an increasingly fragmentary process whereby particularist power apparatuses made themselves independent and where any over-all co-ordination and regularity was missing. The disruption of the unified bureaucratic state order, the growing formlessness and arbitrariness of legislation and of decision-making, and of transmitting decisions, played a part in speeding up the process of radicalization which was every bit as important as any ideological fixity of purpose.

Admittedly Hitler's obsessive preoccupation with specific ideological and political principles proved to be a decisive driving force behind National Socialist policy. But the Führer was not in the least able to decide entirely for himself on the whether, when and how of specific measures. His 'spontaneous' decisions were invariably the reflection and expression of the internal constitutional order and the external position of the regime. The practicability of carrying out, as well as the actual significance of, ideological aims which had been hitherto of a very general nature was only decided once certain patterns of power and responsibility had changed.

The fact that the Hitler state embarked on a course of progressive radicalization and, as it were, reverted to the combat movement whose miserable end seems so strangely akin to the wretched origins of the National Socialist movement was not inevitable. An alternative to this ongoing radicalization, which was bound to mean self-destruction, had offered itself in 1937/8 in the form of regressing simply to a more or less conservative-authoritarian system along traditional lines. A longer duration of the relative stability reached in constitutional developments by 1937 would have been tantamount to a further consolidation, bureaucratization and normalization of the regime and this – as Hitler realized instinctively – would have threatened the National Socialist movement (and the position of the charismatic Führer). Such a reversion to

the authoritarian state of order, or, rather, the maintenance of the *status quo* of 1937/8, was what the overwhelming majority of the conservative opposition of officers and diplomats vaguely had in mind, and this got underway as a result of the break in 1938. They might have prevented the gruesome perversion of the irrational use of force, restored the state of law and the value of humanitarian principles and thus have saved the German nation from the worst. But it is probable that such a regime could not have been all that able or long lasting. *Morally* the conservative resistance to Hitler deserves all honour. *Politically* it was no less helpless than Hitler's conservative partners in 1933. For it was precisely because it was felt both necessary and long overdue to overcome the despotic and authoritarian structure of German society, and because the democratic attempt to bring about change had not had enough support or success, that gave the Hitler movement its blind and dynamic social driving force. The fact that the resolute and fanatical determination of National Socialism to bring about change found such mass acclaim was also a clear sign that large social forces were clamouring to be released from traditional ties and for greater social mobility and equality. National Socialism really owed its socio-psychological suggestivity and its technically modern methods of wielding power in the first place to this pressure to break down those traditional social structures which had been consolidated in Imperial Germany in the face of industrialization and which had hardly been touched in the Weimar Republic.

And finally here lay one of the most significant, if at first negatively defined, consequences of National Socialist control. The conservative, authoritarian forces, institutions and standards of state which had initially comprised the element of stability in the Third Reich were in the end more and more undermined by the National Socialist regime and partly liquidated by brutal force, as after 20 July 1944. Admittedly the National Socialist regime was unable to realize the idealized social set-up which lured it on but the dynamism of the movement left hardly one of the old structures untouched. That was as true of the armed forces and bureaucracy as it was of the Churches and even of the old type of authoritarian teacher and entrepreneur. The basis of the traditional resistance to modernity and liberality was damaged by Hitler every bit as much as were the structures of the state of law and of democracy. For this reason the second attempt, made after Hitler, to bring about democratic self-determination in the political and social life of Germany had less opposition to overcome. But the social revolution brought about by National Socialism was incomplete. The old authoritarian forces of resistance had been grievously weakened but no new political and social structure had been developed for the social forces released to hold on to after the demise of the Hitler state. This lack of continuity and orientation left only recourse to

the Weimar era or to foreign precepts and it is one of the heavy burdens bequeathed by National Socialism. Daily this can still be seen in our own times in the numerous manifestations of a damaged national and political self-confidence.

Notes and references

1. Yearly figures for Jewish emigration from German areas follows: 1933, 63,400; 1934, 45,000; 1935, 35,500; 1936, 34,000; 1937, 25,000; 1938, 49,000; and 1939, 68,000 (according to the documents of the Reich Association of Jews in Germany, *Deutsches Zentralarchiv Potsdam*, Rep. 97).
2. Published in *Deutsche Justiz*, 1934, pp. 1290ff under the heading 'The State Leadership in the Third Reich'.
3. Hitler's secret speech on 10 November 1938 to representatives of the German press (*VJHZ*, 6, 1958, Heft 2, p. 182).