

A Jewish “Nature Preserve”: League of Nations Minority Protections in Nazi Upper Silesia, 1933–1937

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IN October 1936, Herbert Levy, a thirty-year-old German Jew living in Breslau, the capital of Silesia, moved to the eastern stretches of the region in order to become a doctor. Against all odds and repressive trends in Nazi Germany at the time, Levy applied for a spot to study medicine in Hindenburg, a mining town near the Polish-German border. While his application was predictably rejected based on his Jewish identity, Levy’s response was less predictable, at least to an outsider. He appealed his case, arguing that he had the law on his side. Levy was right. Although more than three years of Nazi decrees and persecution had driven many Jewish doctors out of the practice and made the study of medicine all but impossible, Levy enjoyed the protections of *international law*.¹

Under the guarantee of the League of Nations, Jews in most of Upper Silesia—an area encompassing nearly 1.5 million residents and around 10,000 Jews in 1933—were subject to special minority protections that barred Nazi discrimination on the basis of religion.² League-enforced limits on antisemitism in this eastern corner of the *Reich* amounted to an accident of history, born of a Polish-German treaty after World War I. While these protections remain largely unknown to German historians today, they were far from obscure in

¹Levy’s petition to the League of Nations can be found in League of Nations Archives (hereafter LNA) C 819/2246. The German administrative response can be found in Archiwum Państwowe w Opolu (hereafter APO), RO II, Syg. 2011. On the persecution of Jewish doctors in Nazi Germany, see Michael H. Kater, *Doctors Under Hitler* (Chapel Hill, NC: University of North Carolina Press, 2000), chap. 6.

²The 1925 census counted 10,068 Jews in Upper Silesia. The June 1933 census count of 9,228 reflected the flight of hundreds of Jews in the months after the Nazi takeover. Technically the protections extended to the former plebiscite zone of Upper Silesia, an area that excluded the western fringes of the Upper Silesian administrative district, and included a small slice of neighboring Lower Silesia. For purposes of simplicity, the former plebiscite area will be referred to simply as Upper Silesia. The population statistics are in “Volkszählung. Die Bevölkerung des Deutschen Reiches nach den Ergebnissen der Volkszählung 1933,” *Statistik des Deutschen Reiches*, vol. 451, no. 3, *Die Bevölkerung des Deutschen Reiches nach der Religionszugehörigkeit*, 37; Peter Maser and Adelheid Weiser, *Juden in Oberschlesien. Teil 1: Historischer Überblick. Jüdische Gemeinde* (Berlin: Mann, 1992), 48 fn. 124, 71.

their time and place.³ Levy was one among hundreds of Jews who used international law to challenge Nazi antisemitic repression. Through appeals to the League, Jewish leaders in Upper Silesia secured from Nazi Germany a truly exceptional legal concession: from August 1934 until July 1937, all antisemitic laws were declared null and void in the region. Freedoms impossible to obtain elsewhere in Nazi Germany became commonplace in Upper Silesia. Jewish bureaucrats and doctors held onto their jobs, Jewish *Gemeinde* continued to receive state subsidies, and perhaps most substantively, Jews and non-Jews married each other beyond the legal reach of the 1935 Nuremberg Laws.

These Upper Silesian Jewish protections remain understudied for several reasons. It has remained easy to assume that Nazi administrative cynicism about the rule of law—particularly international law under League of Nations guarantee—made Nazi promises of protection little more than lip service. The early Nazi regime excelled at duplicitous double-talk to cover up or deny its brutal antisemitism on the international stage. Why would public promises of fair treatment to Upper Silesian Jews prove any different? Insofar as the protections have been studied, they are generally part of a narrative about the failure of the League of Nations and Jewish international organizations to police Nazi antisemitism. The initial spark for Jewish protections, the Bernheim Petition of May 1933, has received attention largely as a key moment in the collapse of League minority protections throughout Europe. But historians have resisted tracing its regional consequences for Upper Silesia once the affair faded from the League stage.⁴ The legal exclusion also formed but a temporary reprieve. Once the relevant League treaty expired in July 1937, Jews in Upper Silesia were subject to the

³A relatively small literature, most in German or Polish, deals with various aspects of the protections. See Philipp Graf, *Die Bernheim-Petition 1933. Jüdische Politik in der Zwischenkriegszeit* (Göttingen: Vandenhoeck & Ruprecht, 2008); Julia Cartarius, "Schutz und Verfolgung. Die oberschlesischen Juden in den Jahren 1933–1938," in "Durst nach Erkenntnis . . ." *Forschungen zur Kultur und Geschichte der Deutschen im östlichen Europa*, ed. Heike Müns and Matthias Weber (Munich: R. Oldenbourg, 2007); Karol Jonca, "Jewish Resistance to Nazi Racial Legislation in Silesia, 1933–1937," in *Germans Against Nazism: Nonconformity, Opposition, and Resistance in the Third Reich*, ed. Peter Hoffmann, Francis R. Nicosia, and Lawrence D. Stokes (New York: Berg, 1990); Karol Jonca, *Polityka Narodowościowa Trzeciej Rzeszy Na Śląsku Opolskim (1933–1940)* (Katowice: Śląsk, 1970). Cartarius is currently researching the topic for a Ph.D. dissertation.

⁴On the context of the Bernheim Petition, see especially Mark Mazower, "The Strange Triumph of the Human Rights, 1933–1950," *The Historical Journal* 47, no. 2 (2004): 338; Carole Fink, *Defending the Rights of Others: The Great Powers, the Jews, and International Minority Protection, 1878–1938* (Cambridge: Cambridge University Press, 2004), 331–35; Deborah Dwork and R. J. van Pelt, *Flight from the Reich: Refugee Jews, 1933–1946*, 1st ed. (New York: W. W. Norton, 2009), 78. Fink noted that the Bernheim case reaffirmed for many minority activists the need for more individualized protections. Upper Silesia was one of the only minority protection zones where individuals could bring complaints that represented an entire minority. While Mazower only cursorily notes that "Bernheim's petition itself did lead to compensation for himself and others," he links the Bernheim Petition to the crisis in the League's ability to defend Jewish protections across Europe in 1933. Dwork and van Pelt noted in their account of Jewish refugees that, as a result of the Bernheim Petition, "The Jews of German Upper Silesia gained a few years of calm."

same violent repression as elsewhere in Germany. There is no discernable effect of this regional delay on the overall Nazi radicalization leading to the Final Solution. Finally, the case is marked by its very exceptionality. Nowhere else in Nazi Germany was antisemitic policy delayed for as long or curtailed to the same extent as in Upper Silesia.

Yet the temporal and regional limits to Upper Silesian protections do not erode their significance. The lives of many hundreds or even thousands of Jews were improved significantly by League-enforced civil rights. The protections, moreover, raise issues that extend beyond the borders of Upper Silesia, touching on international and foreign policy constraints on Nazi antisemitic policy, on the relationship between antisemitic legislation and extralegal violence, and on the opportunities for a unified front of Jewish resistance. Behind all of these issues are two fundamental questions that must be unraveled to understand the Jewish protections. The first concerns motivations. Why did Nazi Germany feel obliged to honor these Jewish protections in the first place? The Geneva Accord, the relevant treaty that shielded Jews, was backed by the League of Nations, an organization that Nazi Germany openly despised and from which it withdrew in October 1933. Continued Nazi adherence to a League treaty that impinged on sovereign German territory thus requires special explanation.

To answer the question of motivation, one must trace the internationalization of Upper Silesian Jewish protections. The protections were conceived and enacted as part of a bilateral treaty, the 1922 Geneva Accord, reached between Germany and Poland with League backing. Through the League of Nations, Jewish protections in Upper Silesia became a matter of international concern. Historians have established the important role of Nazis' self-perceived reputation on the international stage in driving the "twisted road" of antisemitic policy. Prevention of damage to Germany's reputation abroad proved a crucial factor in the timing and course of Nazi antisemitic repression until at least 1937.⁵ Yet Germany's fear of international embarrassment does not adequately capture the complex Nazi motivations for protecting Jews in Upper Silesia. The geography and demography of the Upper Silesian case are of particular importance. Upper Silesia's place along the German-Polish border and its significant population of Polish speakers provided the grounds for protection in the initial Geneva Accord, which was designed to protect German and Polish minorities remaining on either side of Upper Silesia after it had been partitioned by the League of Nations in 1921. Religious protections were included as an afterthought in the treaty and remained unused until Jews began accessing these

⁵Standard accounts that integrate the perspective of international reputation include Karl A. Schleunes, *A Twisted Road to Auschwitz: Nazi Policy Toward German Jews, 1933-1939* (Urbana, IL: University of Illinois Press, 1970); Saul Friedländer, *Nazi Germany and the Jews: The Years of Persecution*, 1st ed. (New York: HarperCollins, 1997).

rights in 1933. As a bilateral treaty, the Geneva Accord functioned differently from other League minority treaties in that the threat of retaliation underlay the protections. German maltreatment of its Polish minority in Upper Silesia threatened repression of the German minority across the partition border, and vice versa. Interwar Germany took a particular interest in maintaining its German communities in Poland, as well as Danzig. This goal could be endangered by overly aggressive antisemitism where Polish or League interests were at stake. Nazi Germany could have abrogated the treaty, but worried that doing so would give Poland reason to repress the large and economically powerful German minority in Polish Upper Silesia. Jews in the region were thus swept into a unique zone of protection by the fortuitous crosswinds of German-Polish and German-League relations. Regional officials in Upper Silesia protected Jews in their own sovereign territory in order to protect Germans in the near abroad. This was the tacit bargain underlying Upper Silesian Jewish protections. During World War II, Upper Silesia would, after territorial expansion, become the home of Auschwitz. But before 1937, Upper Silesia proved one of the less precarious places to be Jewish in Nazi Germany.

The second question underlying the protections can be phrased in simple terms: did they work? While foreign policy goals motivated Nazi Germany to adhere outwardly to the Geneva Accord, this alone did not ensure the efficacy of the treaty's protections. Domestically, Upper Silesia formed a unique zone within Germany where racial laws that targeted Jews were removed from the panoply of Nazi antisemitic tactics. In this sense Upper Silesia serves as a "control" test case, helping better to assess the relative importance of early Nazi laws by studying where they failed to apply. Historians have increasingly traced the variety and adaptability of local antisemitic initiatives in prewar Nazi Germany, which often were perpetrated outside the bounds of national policy prescriptions and were typically led by local antisemitic activists.⁶ From mayors who continued boycotts beyond their prescribed end date to police officers who used their position to terrorize Jews and SA operatives who perpetrated violence with impunity, the opportunities for extralegal and semi-legal repressive tactics were myriad and account for a significant degree of variation in Jewish suffering in the early years of Nazi rule. Given the adaptability of antisemitism to local conditions and Nazi derision toward the rule of law, it might seem unlikely that a regional exclusion of Reich laws in Upper Silesia would greatly impede the pace of antisemitism.

⁶Wolf Gruner, ed., *Das "Großdeutsche Reich" und die Juden. Nationalsozialistische Verfolgung in den "angegliederten" Gebieten* (Frankfurt am Main: Campus, 2010); Menahem Kaufman, "The Daily Life of the Village and Country Jews in Hessen from Hitler's Ascent to Power to November 1938," *Yad Vashem Studies* 22 (1992): 147–198.

Yet Jewish protections were enforced to a significant degree in Upper Silesia, with consequences both for regional Jews and for society at large. For Jews, the benefits were tangible, reflected not just in economic and legal gains, but also in moral ones. As a contemporary observer put it, Jews were able to “carry their heads higher” in Upper Silesia.⁷ Much of this success can be attributed to regional Jewish leaders, who were emboldened by the promise of international protection to defend their religious and civil rights to a degree unparalleled in Nazi Germany. These regional Jewish leaders used the power of legal appeal to the League of Nations and its local enforcement body, the Upper Silesian Mixed Commission, as a tool to achieve significant reprieves in Nazi antisemitic policy.

The protections likewise hindered some antisemitic activists who pursued violence against Jews, thanks in large part to continued policing of the protections by Jewish groups. Nazi administrative cynicism no doubt made enforcement of the protections far from perfect. Officials’ dubious evasions, delays, and double-talk in handling Jewish complaints eroded the force of League-backed Jewish protections. Yet when antisemitism spilled over into public violence or disobedience, the Silesian president (after late 1934) Josef Wagner found himself forced by League pressure to punish subordinates. The tension between controlling antisemitism from above and unleashing it from below, present throughout Nazi Germany, escalated into outright conflict in Upper Silesia. While no ranking official in Upper Silesia ever embraced their spirit, the protections nonetheless necessitated a marked difference in Nazi *Judenpolitik* between Upper Silesia and the rest of the Reich.

If the Upper Silesian protections served as a unique experiment, contemporaries found a specific metaphor for its exceptionality. Local foes of the protections, as well as those who benefited from them, settled on a common label: Upper Silesia was a “nature preserve” for Jews.⁸ That various parties deployed this term testifies to the myriad, contradictory ways in which nature protection could be imagined and analogized to social policy. While the Upper Silesian “preserve” ultimately bore little relation to the actual work or ideology behind Nazi nature preservation, the term served as a shorthand recognition of the exceptional status of Jewish legislation in Upper Silesia. Antisemitic activists imagined a world in which their predatory instincts were legally curtailed and Jewish “prey” was allowed to roam freely. In their eyes the Upper Silesian nature preserve was inhibiting supposedly natural forces of racial Darwinism. For Jews and their sympathizers, the term connoted an altogether more positive vision, holding out

⁷Willy Cohn, *Kein Recht, Nirgends. Tagebuch vom Untergang des Breslauer Judentums, 1933–1941* (Cologne: Böhlau, 2006), 162.

⁸Georg Weissmann, “Die Durchsetzung des jüdischen Minderheitsrechts in Oberschlesien 1933–1937,” *Bulletin des Leo Baeck Instituts* 22 (1963): 189.

promise of a landscape free of the destruction inflicted by Hitler's antisemitic regime. For both foes and friends of the protections, use of the label "nature preserve" attested to the exceptional and ultimately precarious conditions that had aligned to create this special protection zone in Upper Silesia.

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Jewish protections for residents of Nazi Upper Silesia were an accident of history. They were born of two separate, but interrelated crises after World War I: the resolution of Germany's eastern borders and the protection of eastern Europe's minorities. The original seeds came from antisemitism abroad, especially in Poland. Widespread Jewish pogroms in Poland in late 1918 and 1919, which claimed thousands of victims, prompted strong international condemnation. Zionist anti-pogrom groups pressured the Allied Powers at Versailles to enact minority protections throughout eastern Europe as a condition for recognition of these new nation-states.⁹ The resulting June 1919 treaty with Poland, known as the "little Versailles," gave the nascent League of Nations authority to enforce equality before the law and "the same civil and political rights without distinction as to race, language, or religion" in Poland.¹⁰ Yet the Allies saw little need to extend this control over Germany, whose government was mainly concerned with the vast numbers of German speakers living outside its new post-World War I borders. Germany merely pledged in May 1919 as part of its Versailles negotiations to "treat ethnic minorities within her territory in accordance with the same principles" as states bound to League minority treaties.¹¹ As an informal promise, it carried no legal weight, and Nazi Germany felt free to ignore it.¹²

Upper Silesia formed the crucial exception to Germany's exclusion from League minority treaties. The regional issue of minorities emerged thanks to the internationalization of Upper Silesia's political future. Tucked into the south-eastern corner of Prussia, Upper Silesia was fifty-seven percent Polish speaking or

⁹For a detailed analysis of the pogroms and negotiations leading to the Polish minorities protection treaty, see Fink, *Defending the Rights of Others*, chaps. 5–8.

¹⁰The equality clause is found in Article 7 of the original treaty, reprinted in Jacob Robinson et al., *Were the Minorities Treaties a Failure?* (New York: Institute of Jewish Affairs of the American Jewish Congress and the World Jewish Congress, 1943), 314–17.

¹¹Norman Bentwich, *The League of Nations and Racial Persecution in Germany* (London: Grotius Society, 1934), 78.

¹²International groups that hoped to hold Hitler to the 1919 German pledge turned to an unlikely dispute over Greenland. The International Court ruled in September 1933 that an oral pledge made by Norway's Foreign Minister to Denmark to give the latter full territorial control over Greenland counted as a legal obligation. While certain Jewish groups hoped to apply the same legal logic to Germany based on its 1919 pledge to honor minority protections, Nazi intransigence and withdrawal from the League made such a move implausible. For a discussion of the Greenland case, see Dwork and Pelt, *Flight from the Reich*, 77. The Jewish Community of Katowice echoed this argument in a letter dated May 19, 1933, to the League Council. LNA, R3928/3643.

bilingual, according to the 1910 German census.¹³ After World War I, the Allied Powers originally ceded nearly all of Upper Silesia to Poland, but amid vociferous German protest, the decision was reversed in June 1919 in favor of a nonbinding plebiscite. The campaign preceding the plebiscite was marked by a low-level civil war among Germany, Poland, their nationalist representatives in the region, and radical socialists. This violence reached its apogee during three separate Polish uprisings and subsequent reprisals by German self-defense forces. Ambiguous ethnic dividing lines within and between communities only exacerbated violence, which spilled over into personal reprisals and general lawlessness.¹⁴ The March 1921 plebiscite vote, yielding sixty percent for Germany and forty percent for Poland, followed no clear geographic dividing lines. Nonetheless, a League commission made up of four neutral countries decided to partition the region in October, ceding to Poland around one-third of the land and forty percent of the population, but a clear majority of the region's mining and industrial capacity.¹⁵

In accordance with previous treaty obligations, Poland's new partition zone was now subject to the minority protections signed at Versailles, but Germany's remaining territory in Upper Silesia was not. Minority protections for the German partition of Upper Silesia emerged out of a general crisis of transition toward a split province. Partition of the densely populated, economically integrated region threatened to create chaos. Given the pervasive violence both before and after the plebiscite, security also remained a significant concern. Thus, the League partition decision in October 1921 was joined with a recommendation for a bilateral convention, backed by League mandate, to minimize the damage during the "period of readjustment."¹⁶ The resulting German-Polish convention regulated eleven different domains of potential conflict, most dealing with issues of trade, infrastructure, and continuity in property and labor rights. In

¹³Tomasz Kamusella, *Silesia and Central European Nationalisms: The Emergence of National and Ethnic Groups in Silesia, 1848–1918* (West Lafayette, IN: Purdue University Press, 2007), 173. Bilingual speakers typically spoke Polish at home and learned German in schools. Census statistics reveal heavy pockets of Polish-speaking households in villages and suburban mining towns, with city centers typically dominated by German speakers. APO, RO I, Syg. 2096.

¹⁴Tim Wilson, in comparing communal violence in Upper Silesia to contemporaneous violence in Ulster, argued that the muddled ethnic divisions contributed to a greater level of violence. Tim Wilson, *Frontiers of Violence: Conflict and Identity in Ulster and Upper Silesia, 1918–1922* (Oxford: Oxford University Press, 2010).

¹⁵The League Council admitted the impossibility of drawing entirely fair borders along rational, simple lines given the variable voting results across counties and even within neighboring villages. See the League Council report of August 29, 1921, in *League of Nations Official Journal* (hereafter *LNOJ*) (Dec. 1921): 1222–1223. For general accounts of the plebiscite, see James E. Bjork, *Neither German nor Pole: Catholicism and National Indifference in a Central European Borderland* (Ann Arbor, MI: University of Michigan Press, 2008), chap. 5; T. Hunt Tooley, *National Identity and Weimar Germany: Upper Silesia and the Eastern Border, 1918–1922* (Lincoln, NE: University of Nebraska Press, 1997); Wilson, *Frontiers of Violence*.

¹⁶*LNOJ* (Dec. 1921): 1224.

the partition decision, the League also laid out the expectation that, for a “transitional” fifteen-year period, a Mixed Commission would be established locally within Upper Silesia as “an advisory organ” to oversee this transition.¹⁷ Minority rights were the last among the eleven issues listed on the convention agenda, but they created the most conflict during negotiations and, in the following fifteen years, occupied the majority of the Mixed Commission’s attention.¹⁸

Even as minority rights dominated discussion at the convention, the focus remained on German and Polish rights, not Jewish ones. The resulting Geneva Accord, signed by Germany, Poland, and the League in May 1922, adopted nearly verbatim much of the language of the Polish “little Versailles” treaty, including clauses for religious minorities. Articles 65 to 72 of the Geneva Accord were copied from the 1919 Polish minorities treaty. Article 67 promised equality before the law “without distinction of birth, nationality, language, race, or religion,” while subsequent articles promised educational freedoms (including state subsidies) for Jews and protection of the Sabbath as a day of rest.¹⁹ These specific Jewish clauses were transferred from the Polish treaty to the Geneva Accord as a formality. Given the overwhelmingly Catholic heritage of both Polish and German speakers in Upper Silesia, religious protections carried little significance at the time.²⁰ There is no evidence that Jews organized for Jewish group interests in German Upper Silesia during the plebiscite, nor during the drafting of the Geneva Accord. Nonetheless, thanks to outrage over Polish pogroms in the eastern stretches of Poland, Jews in the eastern corner of Germany were offered League protection for fifteen years. Jewish protections had traveled circuitously from Versailles to Warsaw and then to Upper Silesia, via Geneva. The internationalization of the Upper Silesian question into a European problem—through League-sanctioned occupation, plebiscite, partition, and finally minority protection—inadvertently turned the protection of Jews in Upper Silesia into a European problem as well. No one at the 1922

¹⁷Ibid., 1225–1231. A length of fifteen years as a transitional period was articulated previously in Article 90 of the Versailles Treaty, where the original guidelines for the Upper Silesian plebiscite were established.

¹⁸During negotiations the issue of Polish expropriation of German property became the final sticking point before an agreement was reached that barred seizures during the fifteen-year period. Georges Kaackenbeeck, *The International Experiment of Upper Silesia: A Study in the Working of the Upper Silesian Settlement, 1922–1937* (London: Oxford University Press, 1942), 14–19.

¹⁹Articles 65–72 of the May 15, 1922, Geneva Accord in *ibid.*, 600–609. See also the Polish minorities treaty of June 28, 1919, in Robinson et al., *Were the Minorities Treaties a Failure?*, 313–317.

²⁰According to the 1933 census for German Upper Silesia, 89 percent of residents were Catholic, and 10 percent Protestant. Jews registered 0.6 percent of the population, although this count came after the initial flight of several hundred Jews following the Nazi seizure of power. The statistics from 1840 for the district of Upper Silesia depict a confessional balance of 85 percent Catholic and 13 percent Protestant. For the 1933 statistics, see “Volkszählung. Die Bevölkerung des Deutschen Reiches nach den Ergebnissen der Volkszählung 1933,” *Statistik des Deutschen Reiches*, vol. 451, no. 3, *Die Bevölkerung des Deutschen Reiches nach der Religionszugehörigkeit*, 37. For the 1840 statistics, see Leszek Belzyt, *Sprachliche Minderheiten im preussischen Staat 1815–1914* (Marburg: Herder-Institut, 1998), 274.

signing of the Geneva Accord foresaw the consequences eleven years later for Nazi Germany.

While the first decade of the treaty passed without a single Jewish petition, the broader functioning of the Upper Silesian minority protections is vital to understanding their Nazi-era application to Jews. The motives and incentives for Nazi Germany to protect Jews later were embedded in the structure of the Geneva Accord and the policies of the regional Mixed Commission, which enforced its statutes. The Geneva Accord was a curious hybrid: although guaranteed by the League of Nations, it rested on reciprocal promises of protection for two state-backed minorities. While at least six bilateral minorities treaties under League guarantee were signed between 1918 and 1924, the Geneva Accord contained a unique combination of rights and enforcement mechanisms.²¹ The League treaties, which created a “minorities belt” in eastern Europe, relied on appeal to the League Council, which established a special Minorities Section to oversee petitions. Yet minorities that alleged repression, or groups that represented them, tended to be excluded from the procedure, and political gamesmanship between states often overshadowed resolution of the complaints.²² Upper Silesian complaints could also follow this traditional channel of direct appeal to the League Council, or eventual appeal to the Permanent Court of International Justice, but these options were used relatively rarely by Upper Silesian petitioners. Far more common use was made of the Mixed Commission, the regional apparatus set up to oversee compliance with the Accord. More than 13,000 individuals petitioned the Mixed Commission for minority grievances between 1922 and 1937.²³ The Mixed Commission worked to settle petitions before they reached the politically charged international stage of the League Council. Crucially, in appeals to both the Mixed Commission and the League, Upper Silesians had a right of direct legal appeal. All minorities in Upper Silesia had individual legal standing before the League and could claim these rights as superseding domestic laws in their own state. The Versailles system of minorities treaties, in contrast, guaranteed a right to petition, but offered no formal legal standing to aggrieved individuals or groups.²⁴ While the Versailles system amounted to a right to inform, the Geneva Accord promised a legal right to enforcement of protections.

²¹ For a list of bilateral treaties with League backing, see Robinson et al., *Were the Minorities Treaties a Failure?*, 57 fn. 19. Some of these treaties, such as the mandatory exchange of Greek and Turkish populations in the 1923 Treaty of Lausanne, contradicted the initial aims and spirit of minority protection.

²² Fink, *Defending the Rights of Others*, 283 ff.

²³ A breakdown of year-by-year statistics can be found in Stanisław Rogowski, *Komisja Mieszana dla Górnego Śląska, 1922–1937* (Opole: Instytut Śląski, 1977), 70. Many of the complaints were issued in “class-action” style petitions.

²⁴ Julius Stone, *Regional Guarantees of Minority Rights: A Study of Minorities Procedure in Upper Silesia* (New York: The Macmillan Co., 1933), 20–21.

In addition, subsequent interpretations of the Geneva Accord by the Mixed Commission's president served to strengthen the protections. For its entire fifteen-year existence, the Commission was headed by the former Swiss president Felix Calonder. An early proponent of the League of Nations and a broker of the Geneva Accord, Calonder brought to his job a unique perspective on borderlands and minority rights. He considered the tiny Romansh-speaking corner of Switzerland his homeland, and he was one of the few elite politicians of his time who was fluent in all four of his country's official languages. As a devout political Liberal, Calonder maintained a faith in international institutions to shape political stability.²⁵ Two policies of Calonder's in particular broadened the scope and strength of the protections. In a 1923 decision he declared that associations that represented minority interests not only had legal standing as individuals, but also had the right to represent individual complainants and the right to protest offenses against the entire minority. Without this personal and collective representation by minority interest groups, the power of the protections would have remained "illusory," according to Calonder.²⁶ In a second decision, Calonder reconfirmed and extended the subjective nature of minority declarations. According to Calonder, a minority was simply anyone who claimed to be one.²⁷ While this second decision would be partially counteracted by the Permanent Court for International Justice and had little bearing on the protection of Jews, the power of legal standing afforded to minority groups would prove crucial for the Jewish cause.²⁸

The combination of rights and avenues of appeal in the Geneva Accord, along with Calonder's interpretation of the treaty's statutes, created a system of protections that far exceeded the Versailles model in its scope and accountability. Moreover, the incentives built into the bilateral system—and exploited by Calonder—led to the prevention of abuses before harmful policies were enacted. Despite the fact that he acted as the regional judge of minority complaints, Calonder's authority was ultimately advisory in nature. Failure to comply with Calonder's written judgments met only with the threat of international embarrassment or warnings about potential retaliation. Confronted with "the hardship of far-reaching powerlessness," Calonder understood well that his power rested in backroom negotiations to compel states to see their self-interest in honoring League protections.²⁹ Most often, maintaining good relations depended on heading off complaints and potentially harmful legislation

²⁵On Calonder, see Paul Stauffer, *Polen—Juden—Schweizer. Felix Calonder (1921–1937), "Exilpolens" Berner Emissäre (1939–1945), Die Schweiz und Katyn (1943)* (Schlieren: Neue Zürcher Zeitung, 2004).

²⁶Calonder's written judgment of November 26, 1923, in J. P. Warderholt [Paul van Husen], *Das Minderheitenrecht in Oberschlesien. Die Stellungnahmen des Präsidenten der Gemischten Kommission in der Zeit von Juni 1922 bis Juni 1929* (Berlin: Brückenverlag, 1930), 172–179.

²⁷Stone, *Regional Guarantees of Minority Rights*, 37–38.

²⁸On the Permanent Court's decision on national subjectivity, see *ibid.*, 38–39.

²⁹Stauffer, *Polen—Juden—Schweizer*, 34–35.

ahead of time. Calonder worked diligently to limit the number of written judgments he offered.³⁰ He contacted officials before complaints were registered to seek changes in policy. His pattern of communications suggest that Calonder worked to convince German officials that the protections were in their own best interests, in that they promoted better protection of the German minority in Polish Upper Silesia.³¹

Calonder's policy was successful insofar as the regional administration in German Upper Silesia internalized the need to head off complaints to avoid provoking retaliation across the partition border. Polish minority schools were kept open in German Upper Silesia even when demand was low enough to justify closing them on legal grounds.³² Polish political groups were also allowed special leeway during German election campaigns, despite claims by German officials of possibly illegal propaganda, to ensure similar rights for the German minority in Polish elections.³³ The consequences of violating minority policy could result in retaliation from the other state. For example, after a visiting Polish theater troupe was attacked in German Upper Silesia in 1929, Polish authorities responded by closing down German cinemas and threatening to end theater subsidies for German-language performances.³⁴ German and Polish protections in Upper Silesia were mediated in the first instance through this bilateral impulse to protect minorities abroad and to avoid retaliation for minority repression. This defusing of petitions and complaints before the fact, with Calonder's urging and assistance, was arguably just as important to Upper Silesian minority rights as the issuing of legal judgments.

While the freedoms and privileges for German and Polish minorities relied on the protection of their counterparts just across the border, the stakes were lopsided for the two regional governments. Germany felt itself to have the greater burden in protecting its minority in Poland. The German minority community that remained in Polish Upper Silesia was far more vocal and more economically established than the Polish minority in German Upper Silesia.³⁵ Nearly ninety-four percent of the

³⁰Although more than 13,000 individuals claimed grievances under the Upper Silesian minority protections, Calonder issued only 127 written judgments in his fifteen-year tenure. Rogowski, *Komisja Mieszana dla Górnego Śląska*, 74.

³¹For example, in 1924–1925 Calonder worked behind the scenes to improve language training for teachers in Polish minority schools in German Upper Silesia. January 1925 report in Geheimes Staatsarchiv Preußischer Kulturbesitz (hereafter GStA PK) IHA, Rep. 77, Tit. 856, Nr. 449. In another case in 1925, Calonder pressured the German regional government to hire Polish-speaking civil servants to avoid formal complaints. APO NO I, Syg. 321.

³²“Polnische Minderheitsschulen,” APO, NO I, Syg. 145–146.

³³Minutes of meeting between Calonder and Upper Silesian President Proske, April 14, 1924, APO, NO I, Syg. 321.

³⁴On the theater incident, see APO, NO I, Syg. 265. For Polish retaliation, see *Schlesische Zeitung*, May 8, 1929, no. 233.

³⁵Estimates of the number of “subjective” Germans in Polish Upper Silesia range from 250,000 to 370,000. More than 430,000 on the Polish side of the partition had voted for Germany in the plebiscite, although tens of thousands fled or later moved westward to Germany. Most of the large factories and estates in Polish Upper Silesia were held by nobility or elites who considered themselves German.

more than 13,000 petitions under the Geneva Accord came from the German minority in Polish Upper Silesia.³⁶ Thus the German government, which funded minority groups across the border, had more to lose from breaches in the treaty. Moreover, minority policy in Polish Upper Silesia, particularly after the hard-line nationalist Michał Grażyński took over leadership in the region in 1926, tended to exploit any opportunity to further repression or expropriation of property from the German minority.³⁷ German policies from 1922 to 1937 that protected the smaller Polish minority in German Upper Silesia were thus particularly driven by the perceived effect it would have on the German minority across the border.

It might be expected that Jews, as a third party to this bilateral logic underlying the force of the protections, would suffer from the lack of reciprocal interests. The lack of a direct threat of retaliation from Poland certainly gave Nazi Germany more leeway to violate protections for Jews than for Poles. But, crucially, the Geneva Accord's unique combination of protections clauses and de facto incentives continued to apply to the Jewish protections in Nazi Germany in three key ways. First, Calonder used his leverage in informal negotiations to secure a legal concession from Silesian authorities to head off complaints by declaring all Nazi laws null and void. Second, the power of collective representation of minority interests, combined with a *right* to protection, allowed Upper Silesian Jewish leaders to mount a far more effective defense of rights than would have been possible through individual complaints alone. Last, the Nazi desire to protect Germans in Polish Upper Silesia was also threatened by domestic antisemitism. The threat of retaliation built into the Geneva Accord meant that the German government feared that any breach of the treaty, regardless of victim, would have negative consequences for its minority in Polish Upper Silesia. The government in Polish Upper Silesia, for its part, was willing to use a Nazi breach in minority policy to clamp

While language statistics for German Upper Silesia claimed an even greater number of Polish or bilingual speakers than Germans in Polish Upper Silesia, the nationally active population of Poles remained much smaller, and assimilationist trends were stronger. See Richard Blanke, *Orphans of Versailles: The Germans in Western Poland, 1918–1939* (Lexington, KY: University Press of Kentucky, 1993), 30–31. See also Marek Masnyk, "Die Situation der Polen im Oppelner Regierungsbezirk in den zwanziger und dreißiger Jahren. Ein Problemüberblick," and Pia Nordblom, "Die Lage der Deutschen in Polnisch-Oberschlesien nach 1922," both in *Oberschlesien nach dem Ersten Weltkrieg. Studien zu einem nationalen Konflikt und seine Erinnerung*, ed. Kai Struve (Marburg: Verlag Herder-Institut, 2003), 101 and 112–13, respectively.

³⁶Rogowski, *Komisja Mieszana dla Górnego Śląska*, 70. The preponderance of complaints by the German minority can also be traced to mass petitions against discriminatory Polish school laws in the late 1920s, which attracted thousands of complainants whose grievances were resolved collectively.

³⁷For a Polish view on Grażyński's battle against "Germanization," see Wanda Musialik, *Michał Grażyński, 1890–1965: Biografia Polityczna*, 1st ed. (Opole: Instytut Śląski w Opolu, 1989), 214 ff.

down on the German minority in Poland.³⁸ The German minority abroad was thus perceived as threatened by antisemitism at home.

The first of these trends—Calonder's efficacy through negotiation rather than written judgment—was evident in the initial months after the Nazi takeover of power. In April 1933, Calonder already recognized the implications of the Geneva Accord for Upper Silesia's Jews. He quietly informed the German Foreign Office and League Secretary-General Eric Drummond of his intent to enforce Jewish protections. Calonder singled out recent Nazi laws dismissing most Jews from the civil service and outlawing Jewish kosher slaughter as likely violations.³⁹ The Foreign Ministry was poised to rebuff Calonder's memo, claiming that Germany did not recognize Jews as a minority group, and thus they could not possibly claim protection in Upper Silesia.⁴⁰ Foreign Minister Konstantin von Neurath, however, was inclined to heed Calonder's threat. He warned, in an internal memo, that "the Poles in particular have a great interest in leveling the charge of noncompliance with international obligations."⁴¹ Neurath recognized the threat of antisemitism to this carefully crafted policy in Upper Silesia. As one of the most prominent Weimar-era politicians to remain in his post after the Nazi takeover, Neurath had worked to maintain Gustav Stresemann's policy of defending minority rights in the League in order to protect Germans abroad.⁴² Insofar as his main long-term goal in the east remained revision of Germany's borders, Neurath wished to cultivate the "financially dependent" German minority in Polish Upper Silesia, even at a high financial cost.⁴³ Their continued presence allowed Germany to make the case for revision, and Neurath wished to avoid giving Poland any pretext to repress the minority further and encourage their emigration.

Neurath's fears that the Jewish persecution in Upper Silesia could have foreign policy consequences soon materialized. An international network of Jewish leaders centered around the *Comité des Délégations Juives*, a forerunner of the Jewish World Congress, wished to use the League of Nations to challenge Germany's antisemitic turn in spring 1933. The group quickly recognized that

³⁸Jacek Piotrowski, "The Policies of the Sanacja on the Jewish Minority in Silesia, 1926–1939," in *Polin: Studies in Polish Jewry*, vol. 14, *Jews in the Polish Borderlands*, ed. Antony Polonsky (Oxford and Portland, OR: Littman Library of Jewish Civilization, 2001), 152.

³⁹Stauffer, *Polen—Juden—Schweizer*, 66–67.

⁴⁰German Foreign Office statement of April 7, 1933, in Wolf Gruner, ed., *Die Verfolgung und Ermordung der europäischen Juden durch das nationalsozialistische Deutschland 1933–1945*, vol. 1 (Munich: Oldenbourg, 2008), Doc. 28.

⁴¹Konstantin von Neurath to Wilhelm Frick, April 21, 1933, quoted in Stauffer, *Polen—Juden—Schweizer*, 67.

⁴²On Stresemann as champion of minorities at the League of Nations, see Fink, *Defending the Rights of Others*, chap. 10.

⁴³Outline of Neurath policy speech from April 1933, in John Louis Heineman, *Hitler's First Foreign Minister: Constantin Freiherr von Neurath, Diplomat and Statesman* (Berkeley, CA: University of California Press, 1979), 98.

Upper Silesia, as the only German territory subject to League minority protections, proved the best lever to push Germany to an embarrassing airing of its anti-semitic policy. Thanks to the structure of the Geneva Accord, the group was able to use the violated rights of a single individual to claim repression of all Upper Silesian Jews. Franz Bernheim, discovered by members of the Comité in a Jewish aid office in Prague, coincidentally became that complainant.⁴⁴ Bernheim had recently moved there from Upper Silesia after being fired by a department store that had purged its Jewish employees to avoid the wrath of the April 1, 1933, boycotts.⁴⁵ Bernheim was selected incidentally as a symbol for all German Jews' grievances, with the Comité as his representative. The petition, filed in May 1933, spoke in dire terms of a collective threat to Jews in Germany, warning that "many thousands and tens of thousands will have their existence completely wiped out" if Nazi antisemitism continued uncontested.⁴⁶

Given the symbolic weight attached to the Bernheim Petition, it is not surprising that the affair grabbed international headlines. *The New York Times* ran a front-page story on May 21, 1933, that announced the petition, and a day later the paper noted optimism in League circles that the petition could prompt a broad-based Nazi reversal of antisemitism throughout Germany.⁴⁷ The *London Times*, although less sanguine, noted that "this petition provides the opportunity for a fierce attack on the Hitler Government for its treatment of the Jews."⁴⁸ As newspapers across Europe declared the petition a black eye for Nazism, hopes for a reversal of antisemitic policy were echoed in the halls of Geneva.⁴⁹ The airing of Nazi antisemitic policy on the grand political stage of the League of Nations and on the front pages of the international press was precisely the situation the new Nazi government most wished to avoid.

The Nazi response to the Bernheim Petition conditioned the government's handling of Jewish protections for the next four years. The German delegation hoped to sweep the international scandal under the rug, while also offering the fewest concessions possible on Upper Silesian policy. Unsurprisingly, Germany's League representative in Geneva, Friedrich von Keller, downplayed the violations aired in the Bernheim Petition. In a May 26 League Council session he argued, echoing nearly verbatim instructions from Berlin, that any

⁴⁴Graf, *Die Bernheim-Petition 1933*, 109 ff.

⁴⁵The *Deutsches Familien-Kaufhaus*, where Bernheim had worked, ran an advertisement on March 31, 1933, declaring that their store personnel were now "judenfrei." LNA, C762/1347.

⁴⁶Original petition printed in Paul Gordon Lauren, *The Evolution of International Human Rights: Visions Seen* (Philadelphia: University of Pennsylvania Press, 1998), 128. League documents pertaining to the case can be found in LNA, C 762/1347.

⁴⁷"Treaty Rights Invoked: Upper Silesian Refugee's Petition Asks Voiding of German Laws," *The New York Times*, May 21, 1933, A1. "See Reich Retreat of Silesian Jews," *The New York Times*, May 22, 1933, A9.

⁴⁸"Treatment of Jews in Upper Silesia," *London Times*, May 22, 1933, 13.

⁴⁹Graf, *Die Bernheim-Petition 1933*, 184 ff.

antisemitic acts in Upper Silesia “can only be due to mistakes on the part of subordinate organs acting under a mistaken interpretation of the laws.” In the same breath Keller claimed that international treaty obligations would not be disturbed by domestic laws.⁵⁰ Largely appeased by this seeming capitulation, the League Council sent Bernheim’s original petition back to Calonder for arbitration. Yet the Council also drafted a condemnation of Nazi policies to be aired before the public. Here Neurath’s fears played out, as French and Polish delegates relished the opportunity to condemn German policy on the League stage. Poland had long chafed against what it saw as an unfair legal burden of minority protections placed on its government, while Germany was allowed to flout the protections. The Polish delegate, Eduard Raczyński, used Germany’s violation as a pretext to propose a preexisting Polish goal of either generalizing the protections to include western European states, or else overturning the entire system of minority protections. The Upper Silesian case, Raczyński claimed, revealed the minority protections to be an “unequal system, clearly contrary to the principle of the equality of states.”⁵¹ Raczyński’s speech carried the implicit threat that the German minority would fare much worse if Poland withdrew from its Versailles obligations. The Bernheim case thus revealed how Nazi violation of the Geneva Accord with its own Jewish subjects could negatively affect the German minority in Poland.

Keller’s capitulation in Geneva suggested that Nazi Germany was unwilling to take a chance at prematurely dismantling these protections for Germans abroad, or more generally antagonizing Polish or European leaders at such an early date in the Nazi regime, even if it meant proclaiming protection for Jews in Nazi Upper Silesia. But Keller and the German Foreign Office were only willing to negotiate to a limited extent. Keller informed League officials that he was prohibited by Berlin from signing the final League statement that condemned Nazi actions, even after he had worked to remove legally binding language.⁵² Moreover, the Nazi *Völkischer Beobachter* lampooned the proceedings, claiming “an atmosphere of hate, hypocrisy, and prejudice against Germany” and labeling Bernheim a non-German “member of the all-Jewish world lodge.”⁵³ The Bernheim affair thus met an ambiguous resolution. Keller had promised in Geneva that Germany’s international treaty obligations trumped domestic antisemitic laws in Upper Silesia, yet Germany also flouted League authority and used the case propagandistically for domestic antisemitic agitation.

⁵⁰ *LNOJ*, no. 7, Pt. 1 (July 1933): 833. See also League of Nations Archives, C.351.1933.I. The instructions from Konstantin von Neurath were sent in Telegram 246 of the Foreign Ministry, May 24, 1933, in Gruner, ed., *Die Verfolgung und Ermordung der europäischen Juden*, vol. 1, Doc. 46.

⁵¹ Minutes of the May 30, 1933, Council meeting. *LNOJ*, no. 7, Pt. 1 (July 1933): 841.

⁵² Report of Sean Lester to Department of External Affairs, “Jewish Petition,” June 6, 1933, LNA, S 1/1.

⁵³ “Ein Jude macht dem Völkerbund mobil,” *Völkischer Beobachter* (Munich Edition), no. 151, May 31, 1933; and “Der internationale Jude,” *Völkischer Beobachter* (Munich Edition), no. 154, June 3, 1933.

This ambiguous message set the tone for initial regional enforcement of Keller's promise, namely minimal adherence to the letter of the protections, combined with a rejection of their spirit. The Silesian president until late 1934, Helmuth Brückner, did practically nothing in the months after the Bernheim Petition to slow the pace of repression, which was perpetrated with the same brutality as elsewhere in Germany.⁵⁴ Keller's statements in Geneva seemed an empty promise by late summer 1933. Calonder's initial pleading in April 1933 had yielded nothing, and he could not publicly act unless a new complaint was filed with his office. Here the decisions of Upper Silesian Jewish leaders provided the crucial catalyst to push Nazi officials to honor the Jewish protections in practice. Of the leading Jewish figures in Upper Silesia who banded together to contest the continuing antisemitism, the Beuthen lawyer Georg Weissmann was among the most active. Charged with organizing and drafting most appeals to the League's Mixed Commission, Weissmann was at the front lines of the legal battle with Nazi Germany. His memoirs, drafted in 1940 after his emigration to Palestine, remain the single most comprehensive firsthand account of the Upper Silesian protections. As a Zionist, Weissmann was initially supportive of the Bernheim Petition, but this put him in the minority among his peers.⁵⁵ Jewish groups in Polish Upper Silesia sent in letters of support for the Bernheim Petition, but such letters were noticeably absent from Jewish groups in German Upper Silesia.⁵⁶ The petition exposed deep rifts between more mainstream, pro-integration German Jews and those with Zionist leanings; only the latter group supported using minority protections in May 1933 to challenge Nazi antisemitism. Many Upper Silesian Jews feared Nazi revenge if the government rebelled against the Bernheim Petition.

It was the unexpected opposite result—German capitulation in Geneva—that most greatly emboldened Upper Silesian Jewish leaders. In June 1933 they came together to form a special action committee of the Jewish Union of Synagogue Communities (*Synagogengemeindeverband*) to police German compliance with the Geneva Accord. This was among the first notable Jewish organizations in Germany to bridge traditional political divides that separated Zionists from integrationist German Jews. The Union felt that its advantage lay in exploiting Germany's international self-interest through quiet negotiations. Weissmann explained the dynamic in his memoirs:

We know now, and actually already knew then, that nothing was further from the German government's intent than to implement the minority

⁵⁴On continuing antisemitism, see reports of July–September 1933 from Jewish Synagogengemeindeverband to Calonder in LNA, C 898. See also the memoirs of a Jewish lawyer in Gleiwitz, Erich Schlesinger, "Geschichte der jüdischen Gemeinde Gleiwitz vom 31. Januar 1933 bis 24. Januar 1945," n.d., 3, ME 566, Leo Baeck Institute Archives.

⁵⁵Weissmann, "Die Durchsetzung des jüdischen Minderheitsrechts," 158.

⁵⁶Letters of support in LNA, R 3928/3643.

protections for Upper Silesian Jews loyally, and that the government only saw the need to give its statement in Geneva out of political exigency. Back then Germany was weak in regard to foreign policy; it was moreover still a member of the League of Nations and had an interest in protecting the strong German minority in Polish Upper Silesia, and in avoiding everything that could hinder this protection. On the other hand, it was clear that the treatment of Jews in Upper Silesia presented a cheap argument for the Polish government to treat Germans in Polish Upper Silesia analogously.⁵⁷

In reality, it took several months for the Jewish Union to discern clearly Nazi motivations laid out in hindsight by Weissmann. Repeated behind-the-scenes overtures to Nazi officials to honor the protections garnered only minor concessions, such as the rehiring of a few civil servants.⁵⁸ Meanwhile “the hate of the party organizations took on an ever stronger form,” prompting the Union to travel to Berlin in August to submit a formal complaint.⁵⁹ Yet the group’s letter, which contained forty-seven separate grievances, went unanswered by the government, according to Calonder.⁶⁰ In mid-September the Union crossed the threshold into international intervention, sending a letter of complaint to Geneva, and by November filed the first formal legal complaint with Calonder’s Mixed Commission.⁶¹ Once the threshold was crossed into legal confrontation, the Jewish Union unleashed a veritable avalanche of complaints, including ten in the final quarter of 1933 and another sixty-eight in 1934. Most of the petitions in the first months predictably tackled Jewish exclusion from economic life: loss of government positions among lawyers and doctors, denial of unemployment benefits, or firings from private companies.⁶²

The appeal to the League of Nations by Upper Silesian Jewish leaders in late 1933 may seem a reasonable, even tepid response, especially given later repression. But the Jewish Union saw it as a bold move, even a last resort. Why did Upper Silesian Jewish leaders ultimately prove willing to threaten their own state with international sanctions? For well over a century the German-Jewish experience had been defined by emancipation, carried out primarily through a slow march to legal equality. The rule of law provided the foundation of modern freedoms for Jewish life. The Versailles system of minority protections after World War I enshrined these principles of equality in the realm of international law, even as

⁵⁷Weissmann, “Die Durchsetzung des jüdischen Minderheitsrechts,” 159–60.

⁵⁸Jewish Union complaints to regional officials covered issues such as loss of building or government contracts, loss of liquor licenses, and discriminatory hiring practices. APO, RO I, Syg. 2012.

⁵⁹Weissmann, “Die Durchsetzung des jüdischen Minderheitsrechts,” 162–63.

⁶⁰Ibid.; letter of August 4, 1933, by Synagogengemeindeverband to German Foreign Office, in Gruner, ed., *Die Verfolgung und Ermordung der europäischen Juden*, vol. 1, Doc. 67.

⁶¹Communication between the League and the Jewish Union from August–November 1933 in LNA, C898. See also Weissmann, “Die Durchsetzung des jüdischen Minderheitsrechts,” 166–169.

⁶²Statistics from Rogowski, *Komisja Mieszana dla Górnego Śląska*, 70, Table 1. Summaries of individual case files can be found in LNA, C 678.

these protections applied mainly to states in eastern Europe, and not Germany. The Nazi takeover heralded, as one historian has called it, the “end of emancipation” for German Jews.⁶³ Yet many Jewish leaders maintained a faith in the rule of law long after Nazi leaders had begun cynically to dismantle it. Well into the Nazi regime, even as late as 1937, Jews continued to contest legal repression in courts and government offices, winning occasional victories from sympathetic judges or civil servants.⁶⁴ This continued faith in the law animated Upper Silesian Jews who saw themselves as accessing civil rights long established in Germany and minority rights that applied primarily to other European states. The basis of the protections in legal norms of post-emancipation civil rights thus offered justifiable and reassuringly familiar grounds for Upper Silesian Jews of varying political persuasions to contest antisemitism.

Despite the potential for public shame from League complaints, Upper Silesian President Helmuth Brückner only reached a political settlement after many months of persistent pressure from Calonder.⁶⁵ The Jewish Union allowed Calonder to seek a durable solution behind the scenes that would remove the need for a continued litany of complaints. In addition to the feared consequences to the German minority in Polish Upper Silesia, Brückner’s decision also was shaped by Germany’s evolving relationship with the League of Nations and with Poland. In October 1933 Germany withdrew from the League. Yet this did not alter the fact that League authority still extended over several areas Nazis hoped to reclaim as fully sovereign parts of Germany: the Saar, Rhineland, Danzig, and—insofar as the Geneva Accord impeded full sovereignty—Upper Silesia. Germany was accustomed to international restrictions on its sovereignty in its territorial margins. This required, in practice, continued caution in Berlin when dealing with the League. Combined with this were fears in 1933 of international isolation, or even a preventive war against Hitler, while Germany was still militarily weak. The Nazi policy of continuing the Weimar-era defense of Germans in the near abroad also required political caution internationally.⁶⁶

⁶³Reinhard Rürup, “Das Ende der Emanzipation. Die antijüdische Politik in Deutschland von der ‘Machtergreifung’ bis zum Zweiten Weltkrieg,” in *Die Juden im Nationalsozialistischen Deutschland, 1933–1943*, ed. Arnold Paucker (Tübingen: J. C. B. Mohr, 1986), 97–114.

⁶⁴Dirk Blasius, “Zwischen Rechtsvertrauen und Rechtszerstörung. Deutsche Juden 1933–1935,” in *Zerbrochene Geschichte. Leben und Selbstverständnis der Juden in Deutschland*, ed. Dirk Blasius and Dan Diner (Frankfurt am Main: Fischer Taschenbuch, 1991), 121–137.

⁶⁵According to Weissmann the Jewish Union found in Calonder a figure of authority who they felt “was genuinely willing to help.” Weissmann, “Die Durchsetzung des jüdischen Minderheitsrechts,” 170.

⁶⁶The Stresemann-led policy of embracing the League of Nations minority protections to defend Germans abroad has generated a significant literature. For specific literature on the nexus of Weimar interest in the League and in minorities beyond its eastern borders, see Georg Arnold, *Gustav Stresemann und die Problematik der Deutschen Ostgrenzen* (Frankfurt: Lang, 2000); Piotr Madajczyk,

In all of these German foreign policy considerations, Poland loomed large. German territorial revisionism was directed most explicitly at territories lost to its eastern neighbor after World War I, and fear of Hitler's intentions led Poland to rattle its sabre in March 1933. Moreover, by withdrawing from the League, Germany had sacrificed its main outlet for defending German minorities abroad. Now Berlin had to rely more on the goodwill of Poland to defend German minority interests. Hitler subsequently saw rapprochement with Poland as a necessity for defending German interests, including those of Germans in Poland.⁶⁷ Fortuitously for Nazi Germany, its withdrawal from the League meant that a new bilateral security arrangement proved in Poland's interest as well. The resulting German-Polish Nonaggression Pact of January 1934 not only promised military détente, but also suggested a potential evolution in minority relations. One of the main goals of the pact was to remove disputes from the public League stage in favor of quiet, bilateral resolutions.⁶⁸

Despite this new Nonaggression Pact, the dynamic of minority protections in Upper Silesia remained largely the same. Both sides still allowed the Mixed Commission to serve as the primary arbiter of minority complaints. Germany remained in a position of perceived weakness vis-à-vis its minority in Poland, and it hoped to avoid giving Poland reasons to dismantle minority protections.⁶⁹ Despite withdrawing from the League, Germany continued to uphold the Geneva Accord. The Nonaggression Pact, if anything, actually heightened sensitivity among Upper Silesian Nazi administrators, who significantly loosened prior restrictions on the Polish minority. As a result, the small but dedicated Polish minority, now less fearful of Nazi repression, reinvigorated its movement.⁷⁰ The issue of Jewish protections arose precisely at a moment when Nazi policy in Upper Silesia toward the Polish minority was becoming more lenient. Rejecting the validity of the Bernheim settlement would have meant reversing this trend, which could have provided a pretext for Polish Upper Silesia to worsen treatment of the German minority. This was the combination of foreign policy interests that weighed on Brückner when he finally declared Nazi antisemitic laws null and void. He released this terse proclamation in August 1934: "I hereby announce that all laws and decrees enacted after April

Polityka i koncepcje polityczne Gustawa Stresemanna wobec Polski: 1915–1929 (Warsaw: Instytut Nauk Politycznych, 1991).

⁶⁷ Gerhard Weinberg, *Hitler's Foreign Policy, 1933–1939: The Road to World War II* (New York: Enigma Books, 2005), 76 ff.

⁶⁸ At a 1933 Geneva meeting, Józef Beck recalled how Goebbels stated Germany's desire for direct bilateral relations in terms of anti-League sentiment. Józef Beck, *Final Report*, 1st ed. (New York: R. Speller, 1957), 26–27.

⁶⁹ Weinberg, *Hitler's Foreign Policy*, 192–93.

⁷⁰ Oppeln *Regierungspräsident* to Interior Ministry, March 18, 1935, in *Deutsche und Polen zwischen den Kriegen. Minderheitenstatus und "Völkstumskampf" im Grenzgebiet: Amtliche Berichterstattung aus beiden Ländern, 1920–1939*, ed. Institut für Zeitgeschichte (Munich: Saur, 1997), 857–58.

1, 1933, and in the future, insofar as they contain exceptional measures for persons of non-Aryan descent, are invalid in the Upper Silesian plebiscite zone."⁷¹ Along with Keller's statement in Geneva and one other proclamation in 1935 that explicitly nullified the Nuremberg Laws, these were the only official pronouncements of Jewish protections in Upper Silesia.

Brückner's decision marked the final point in a transition of the Jewish protections from the international stage to the regional one. After the Bernheim Petition had clearly failed to yield a broad-scale reversal of Nazi antisemitic policy throughout Germany, international Jewish groups largely retreated to a secondary role as advisors or observers in Upper Silesia, allowing the regional Jewish Union to take the initiative.⁷² This regional containment of the protections is evident in Brückner's declaration, which seems to have been issued without prior approval. His memo to Interior Minister Wilhelm Frick, just after his August 1934 declaration, suggests that Brückner issued the decree as a proactive foreign policy decision. "The circumstances in Upper Silesia are such that Jews [*das Judentum*] enjoy extensive preferential treatment, such that non-implementation of Aryan legislation is being demanded," Brückner wrote. Political accommodation was necessary, he added, "since the staging of the dispute before the Mixed Commission chaired by Calonder would surely lead to a defeat for the German state, which must be avoided in the interest of our international standing."⁷³ Implicit in Brückner's statement was that damage to Germany's international standing meant damage to the position of German minorities abroad. Brückner was allowed—and even expected—to prioritize foreign policy and "state interest" over antisemitic repression, and to contain any fallout from the protections at the regional level. Authority for implementing this policy in line with Nazi foreign policy aims rested on his shoulders. While Brückner would soon be replaced in December 1934 by Josef Wagner, the same essential policy incentives carried over to the new leader.⁷⁴ With Germany's leverage weakened after League withdrawal, Nazi leaders in Upper Silesia felt compelled to protect Jews at home in order to protect Germans abroad.

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⁷¹"Bekanntmachung des Oberpräsidenten der Provinz Oberschlesien," August 8, 1934, reprinted in Weissmann, "Die Durchsetzung des jüdischen Minderheitsrechts," 196.

⁷²The path of the Comité des Délégations Juives after the end of the Bernheim affair is traced in Graf, *Die Bernheim-Petition 1933*, chap. 5.

⁷³Politischer Lagebericht from Brückner to Interior Ministry, August 9, 1934, quoted in Jonca, *Polityka Narodowościowa Trzeciej Rzeczy Na Śląsku Opolskim*, 301 fn. 236.

⁷⁴Brückner's downfall came in the wake of an intense and bitter rivalry with Silesian SS commander Udo von Woysch and amid accusations of homosexual activity. Helmut Neubach, "Helmuth Brückner. Gauleiter von Schlesien 1925–1934," *Jahrbuch der schlesischen Friedrich-Wilhelms-Universität zu Breslau* 38/39 (1997/1998): 783–798.

Even with Brückner's decree in 1934, one must ask the basic question, did the protections work? In the three years until the expiration of the Geneva Accord, much of the promise of legal protection was fulfilled. Concrete government concessions gave the Jewish community freedoms and benefits that were unimaginable elsewhere in Germany. Jewish doctors, lawyers, and civil servants held onto their jobs, or were reinstated in government posts or programs such as the state health insurance system.⁷⁵ Many others received settlements after Calonder issued a judgment of unfair termination. With the Nuremberg Laws invalid in Upper Silesia, multiple cross-confessional nuptials were approved by regional registry offices.⁷⁶ In August 1935, Wagner declared, "I see no possibility at this time of hindering these kinds of mixed marriages."⁷⁷ Thanks to the precedent of group representation of grievances, many of the most notable benefits accrued to the community as a whole. The Jewish Union compelled Germany to reinstate subsidies for regional Jewish communities, including retroactive payments for previously denied funds.⁷⁸ The Nazi ban on kosher slaughter was also lifted for Upper Silesia.⁷⁹ Although the government imposed a rigid quota system to limit kosher meat production to amounts sufficient only to feed the regional Jewish population, Upper Silesia became a supplier of illicit kosher meat for the rest of Germany.⁸⁰ The Jewish Union also protested antisemitic articles in various government publications, and even succeeded in eliciting an official ban on the distribution of the rabidly antisemitic *Der Stürmer*.⁸¹ School textbooks were edited and curricula altered. Many public institutions such as

⁷⁵Summaries of selected case files resulting in reinstatements are in LNA C678/1364, 1429, 1569, 1570, 1576, 1577, 1601, 1602.

⁷⁶Two marriage applications were cited for August 1935 in regional administrative files, although one seems to have been rejected on a technicality, with the other approved. APO RO I, Syg. 2011. Another couple petitioned the League after encountering resistance in 1935 and were subsequently given permission to marry. See petition file in LNA C817/2200. A petition was filed for another couple in April 1937 after their marriage license was rejected, but Nazi administrators countered that the groom lived in Breslau, outside the protection area. The case was not resolved when the protections expired. A summary of the case is in LNA C678/2277. These cases do not include those who were married without the need to appeal to League authorities. Georg Weissmann claimed "a number of mixed marriages" even though he noted disapproval in Zionist circles. Weissmann, "Die Durchsetzung des jüdischen Minderheitsrechts," 180–81. The 1939 census counted 148 marriages between Jews and "Deutschblütigen" throughout Germany in 1936 (the only full year between the enactment of the Nuremberg Laws and expiration of the Geneva Accord). "Die Bevölkerung des Deutschen Reiches nach den Ergebnissen der Volkszählung 1939," *Statistik des Deutschen Reiches*, vol. 552, no. 4, *Die Juden und jüdischen Mischlinge im Deutschen Reich*, 62.

⁷⁷Letter of August 27, 1935, by Wagner to Interior Ministry. APO, RO I, Syg. 2011.

⁷⁸LNA C765/1385.

⁷⁹Central Zionist Archive (hereafter CZA), A 38/13. The petition that brought about the lifting of the ban can be found in LNA C765/1382.

⁸⁰Marion A. Kaplan, *Between Dignity and Despair: Jewish Life in Nazi Germany* (Oxford: Oxford University Press, 1999), 278. See also Abraham Ascher, *A Community under Siege: The Jews of Breslau under Nazism* (Stanford, CA: Stanford University Press, 2007), 94.

⁸¹Case summary concerning "Ämtliches Schulblatt" in LNA, C 678/1519; summary of case resulting in banning of *Der Stürmer* in LNA, C 678/1567.

pools and parks remained open to Jews.⁸² Almost all of these accomplishments were reached through negotiations, with the threat of Calonder's court decisions sufficient to head off complaints. Of the 149 Jewish appeals that reached the Mixed Commission, Calonder issued written judgments in only three cases.⁸³

These concrete legal concessions were enough on their own to improve life significantly for thousands of Upper Silesian Jews, without taking into account potential auxiliary benefits such as decreased social exclusion. With these tangible improvements, it seems plausible that a great number of Jews from elsewhere in Germany might have flocked to the region. The protections extended, after all, immediately to anyone who took up residency in the former plebiscite zone. Others beyond Upper Silesia were certainly aware of the situation; news of the protections made it into Jewish press outlets and publications.⁸⁴ Despite these information flows, a mass influx of Jewish migrants into Upper Silesia never materialized.⁸⁵ Those who did move, such as the aspiring doctor Herbert Levy, would hesitate to claim the protections as their reason for relocating. Among the few who have entered the historical record, all relocated from neighboring Lower Silesia, and most seem to have made use of family and friends. Levy moved in with relatives in the Upper Silesian district capital, Oppeln. An interreligious couple, Frieda Mai and Otto Schäfer, relied on familial and professional contacts when they moved from Breslau to Upper Silesia in late 1935. The couple, eventually married after a delay, both were native-born Upper Silesians.⁸⁶ Much like in the rest of Germany, familial and friend networks often determined relocation patterns, and those who came were more likely to have first- or secondhand knowledge of actual conditions. It should not be surprising that those farther away from Upper Silesia would find little incentive to move. This mirrors the motivations and patterns of flight and emigration in the rest of the Reich.

⁸²A summary of the benefits that accrued to the Jewish community can be found in Weissmann, "Die Durchsetzung des jüdischen Minderheitsrechts," 172–178.

⁸³Staufer, *Polen—Juden—Schweizer*, 82.

⁸⁴See, for example, Comité des délégations juives, *Das Schwarzbuch: Tatsachen und Dokumente. Die Lage der Juden in Deutschland 1933* (Paris: Pascal, 1934), 176–78. While finalizing negotiations over kosher slaughter in August 1934, several Jewish newspapers prematurely printed reports of a settlement. This prompted the Upper Silesian Jewish Union to send letters to major papers asking that they be consulted on all further news. Letter of August 10, 1934, by Synagogengemeindeverband to *Israelitische Familienblatt*, CZA, A 38/13.

⁸⁵Jonca, *Polityka Narodowościowa Trzeciej Rzeczy Na Śląsku Opolskim*, 293; Weissmann, "Die Durchsetzung des jüdischen Minderheitsrechts," 189. Weissmann claimed "some Jews" moved to Upper Silesia before 1937 to enjoy rights, while Jonca claimed the number "did not reach a mass scale."

⁸⁶For the Herbert Levy case, see LNA C819/2246. For the Mai/Schäfer case, LNA C817/2200. In another case, a Jewish lawyer, Gustav Simon, disbarred in Breslau for alleged communist sympathies, reapplied for admission in Ratibor, Upper Silesia. His application was rejected and he was subsequently arrested. See Robinson et al., *Were the Minorities Treaties a Failure?*, 115; Christian Raitz von Frentz, *A Lesson Forgotten: Minority Protection under the League of Nations: The Case of the German Minority in Poland, 1920–1934* (Münster: Lit Verlag, 1999), 163.

Those still clinging to their livelihoods in Germany would have sacrificed precisely what they wished to hold on to—businesses, jobs, family, and friends—by moving across the country. For those who saw nothing left to salvage, meanwhile, moving to an area of the Reich with a temporary reprieve from antisemitism made far less sense than escaping the country altogether.⁸⁷

Even had there been a large-scale Jewish influx into Upper Silesia, hopes of an environment free of antisemitism would have been quickly dashed. The forces that weakened the protections can be broadly categorized into those carried out or tacitly condoned by the regional government on the one hand, and violent acts committed by local activists on the other. Government cynicism, delays, twisted arguments, and intentional blindness to minor offenses constituted the most pervasive source of frustration for Calonder and Jewish leaders. Firings from civil service positions and other forms of government-backed repression continued even after Brückner's August 1934 proclamation, and vigilant policing of Nazi compliance proved necessary. The Jewish Union continually filed complaints with the Mixed Commission, with around seventy reaching Calonder's desk in 1935–1937.⁸⁸ Nazi responses to complaints often employed a combination of years-long delays and deceitful legal logic. Among the most common deflections used by Nazi officials was the accusation of communist sympathies, since the Geneva Accord offered no protection for political oppositionists. In a minority of cases, Nazi claims proved legally grounded. When a Jewish resident appealed orders for his sterilization in 1936, Calonder claimed a lack of jurisdiction, since the sterilization law technically treated "Aryans" and Jews equally.⁸⁹ Similarly, when the Jewish Union complained in May 1934 that not a single Jew had been hired regionally for public service since April 1933, the Nazi government argued that it was merely coincidence, and that securing government employment was in any case a privilege, not a right.⁹⁰ These cases reveal the limits of minority protections that offered equal protection for a religious minority, but could not guarantee full civil rights in a repressive, illiberal state.

Where evasive legal arguments failed, Nazis simply delayed or threw money at the problem. Although several complaints of government firings resulted in rehiring, the more common Nazi tactic was to buy off Jewish victims.⁹¹ Drawn-out negotiations wore down complainants. By the time Bernheim received a 1,600 RM settlement in December 1935, more than two years after his petition, he

⁸⁷On the financial motivations and costs of emigrating, see Avraham Barkai, *From Boycott to Annihilation: The Economic Struggle of German Jews, 1933–1943* (Hanover, NH: University Press of New England, 1989), 99 ff.

⁸⁸Rogowski, *Komisja Mieszana dla Górnego Śląska*, 70.

⁸⁹LNA, C 678/2123.

⁹⁰"Synagogengemeinde für Nichtanstellung der Juden als Beamte," APO, USMO, Syg. 487.

⁹¹For examples of monetary settlements, see the case summaries in LNA C678/1476, 1478, 1485, 1505, and 1551.

had emigrated to New York.⁹² Another civil servant fired in April 1933, Friedrich Münz, had Calonder's backing but still struggled in vain for more than a year to regain his job before accepting a 5,000 RM settlement.⁹³ Nazi delays became particularly acute as the protections neared expiration. Herbert Levy never earned a spot to study medicine, as Wagner instructed Nazi officials to proceed "dilatorily."⁹⁴ The case remained unresolved when the protections expired, along with at least four other petitions.⁹⁵

Government cynicism extended beyond complaints, inflecting the functioning of the civil service. Even with all antisemitic laws declared null and void in 1934, contradictory decrees from Berlin poured in to local offices in the ensuing years. Local civil servants often followed these decrees unless the Upper Silesian president explicitly contravened them. Calonder scolded the government in late 1935. "Practice has shown that the subaltern circles of the civil service, of party organizations, of the SA, etc. often do not respect the principle that the Geneva Accord settlement overrides national legal policies," Calonder told a German official. "Such an atmosphere of doubt and of an unsure mindset toward international legal norms shall not be tolerated."⁹⁶ Government apathy in punishing violators exacerbated an atmosphere of relative impunity among committed antisemites. Other measures proved nearly impossible to enforce, even had the regional government tried to intervene more vigorously. *Der Stürmer*, although banned, still made its way regularly into Upper Silesia. While school curricula were changed and textbooks edited, it was impossible to counter an atmosphere of antisemitism in many classrooms. Violent acts, while diminished, also remained a threat to Jewish life. As the Night of the Long Knives erupted throughout Germany, roving bands of SA men carried out bloody attacks against Jews in Upper Silesia.⁹⁷

The most pervasive form of repression tacitly condoned by the government was the continuation of the economic boycott. The boycott was simply carried out in "silent" fashion. Social pressure in Nazi circles to avoid Jewish businesses remained similar to the rest of the Reich. The government claimed no responsibility for purportedly personal decisions to boycott. Erich Schlesinger, a Jew from Gleiwitz, described most local Jewish law and medical practices as "barely viable" as a result of the boycott. According to Schlesinger, "Many Jews recognized that, despite legal protection, economically there was nothing left to salvage in Upper

⁹²Complaint 1347 summarized in LNA, C 678. Bernheim emigrated to the U.S. in 1934 and lived in New York until his death in 1990 at age 91. Graf, *Die Bernheim-Petition 1933*, 287.

⁹³APO, USMO, Syg. 393.

⁹⁴Letter of May 19, 1937, by Wagner to German Minority Office, APO, RO I, Syg. 2011.

⁹⁵Summaries of unresolved cases in LNA, C678/2195, 2224, 2277, and 2278.

⁹⁶Minutes of October 11, 1935, meeting in LNA, C 898.

⁹⁷See multiple reports from July 1934 in CZA, A 38/4.

Silesia, and they left Gleiwitz.”⁹⁸ Some, such as Frieda Rosenwasser, moved with her family in February 1934 just across the border to Tarnowiskie Góry in Polish Upper Silesia, where her husband had previously worked.⁹⁹ Others traveled greater distances. At least seven Jews from the city of Gleiwitz emigrated to Brazil. Other destinations included Bolivia, Argentina, South Africa, and Palestine.¹⁰⁰ Upper Silesia’s Jewish community became particularly active in offering linguistic and agricultural courses for eventual emigration. These courses were made possible in large part by continuing Nazi subsidies for the Jewish community, which were more generous than in the Weimar period.¹⁰¹ The continuation of boycott measures formed a primary motivation for this organized activity to prepare for emigration.

All of these hindrances to the effective enforcement of the minority protections demonstrate that Nazi officials hardly took the protections to heart—in fact, quite the opposite. As long as the repression was carried out quietly, preferably through private or semiprivate organizations, and without consequences for foreign policy priorities, then Germany suffered no serious political consequences. But this pervasive attitude of government cynicism toward the legal norms of Jewish protections had its limits. The need to adhere outwardly to League protections hurt government relations with its Nazi social base. Upper Silesian exceptionalism riled many in the “Aryan” community. A wood supplier complained to authorities he was underbid by a Jewish competitor for a large contract in 1935. A year later, a drunk Nazi party member was arrested for disturbing the peace, yelling out “In Upper Silesia the Jews still rule to this day!”¹⁰² Such cases of insubordination often met punishment. In particular, when antisemitism spilled over into public disorder, Wagner felt compelled to act. The most violent case from Upper Silesia during the protections reveals both the ability of local government and party members to induce terror, as well as the value of the protections in policing such actions. The case began in July 1935 in Beuthen, where the “Aryan” Charlotte Teichgräber, a hairdresser, and her Jewish fiancé Leonhard Posner had recently applied for a marriage certificate. On July 22, an antisemitic mob led by the SA member Josef Littinsky attacked Teichgräber, cutting her hair, smearing her face with copier tint, and marching her through the streets with a sign around her neck reading “I am a racial defiler.”¹⁰³

⁹⁸Schlesinger, “Geschichte der jüdischen Gemeinde Gleiwitz vom 31. Januar 1933 bis 24. Januar 1945,” 4.

⁹⁹Frieda Rosenwasser, “Von Oberschlesien nach Samarkand. Geschichte einer Familie,” n.d., ME 534, Leo Baeck Institute Archives.

¹⁰⁰Schlesinger, “Geschichte der jüdischen Gemeinde Gleiwitz vom 31. Januar 1933 bis 24. Januar 1945,” 3.

¹⁰¹Jonca, “Jewish Resistance,” 83–84; Weissmann, “Die Durchsetzung des jüdischen Minderheitsrechts,” 174.

¹⁰²APÖ, R O I, Syg. 2011.

¹⁰³LNA C 800/1885.

The Jewish Union's complaint to Calonder painted a picture of widespread government complicity in the attack. The hundreds of hecklers allegedly included a uniformed member of the Gestapo. After Teichgräber was eventually taken into protective custody, the ringleader Littinsky roamed freely around town boasting to crowds of his actions. He was praised by the Beuthen police chief and local Nazi propaganda head, Fritz Heinrich, for his efforts. Heinrich also happened to own the local SA brown house, in whose windows newspaper clippings from beyond Upper Silesia praising the action were put on display. A placard in the same window warned that racial defilers would meet their fate at the pillory. The "demonstration" had allegedly been planned by Littinsky and sanctioned by police in advance, on the grounds that Teichgräber was Aryan, not Jewish, and therefore beyond the reach of minority protections. The attack on Teichgräber helped to spur a wave of local antisemitic harassment and attacks in Upper Silesia in the following weeks. Littinsky was detained only after the Jewish Union's complaint to Calonder and eventually sentenced to two months for his actions (and released based on time served). The government escaped any censure for complicity in the Teichgräber case, and the couple fled Germany, determined to marry abroad.¹⁰⁴

This case encapsulates the main weaknesses of the protections, particularly the continued extralegal attacks carried out by antisemitic activists acting with impunity. While taking on the outward appearance of "wild" antisemitism, such actions were backed by dense networks of local officials. From SA leaders to police officers, party officials, newspaper editors, and judges, the confluence of antisemitism and local power was considerable and often accounted for the most visceral terror suffered by Jews. This antisemitic violence in Upper Silesia predictably rose and fell in synchronous waves with the rest of Germany. The summer of 1935, when Teichgräber was attacked, saw the escalation of violent antisemitic attacks against "racial defilement" across Germany, propelling Hitler to announce the Nuremberg Laws that September.¹⁰⁵ With the Teichgräber attack, Upper Silesian antisemitic activists showed that the Geneva Accord did not prevent them from participating in violence occurring in the rest of the Reich.

At the same time, official clampdowns on socially disruptive antisemitism in Upper Silesia carried special weight. Two days after the Teichgräber attack, regional officials issued a very stern decree banning all antisemitic demonstrations regionally, even those with "Aryan" targets.¹⁰⁶ Wagner, in condemning the

¹⁰⁴Ibid. Weissmann authored the original complaint on July 26, 1935. See also APO, RO I, Syg. 2011 for police admission of sanctioning the demonstration.

¹⁰⁵On the wave of "racial defilement" and general antisemitic attacks in summer 1935 and the subsequent drafting of the Nuremberg Laws, see Friedländer, *Nazi Germany and the Jews*, 121–22, 137–44. Contemporary reports are provided in *Deutschland-Bericht der Sopade*, vol. 2 (Prague: Sopade, 1935), 920–33.

¹⁰⁶LNA C800/1885.

actions, found himself in conflict with local officials. The Gleiwitz police chief, while siding with Wagner against subordinates, noted “in the end it does not serve the racial-political goals of National Socialism when actions are undertaken that must be condemned and repressed by state authorities for reasons of state necessity.”¹⁰⁷ If Wagner reined in wild antisemitism, it was certainly not out of sympathy toward Jews or even necessarily out of a desire to comply with Calonder’s admonitions. In Upper Silesia, indifference to the prescriptions of League protections was pervasive at lower levels of the bureaucracy. But the potential for conflict between local Nazi activists and officials sensitive to international policy considerations was all the greater because of the Geneva Accord protections. When this potential turned to outright conflict, as in the Teichgräber case, Wagner favored punishing attackers to placate Calonder and the League and avoid retaliation from Poland.

Although an attitude of cynicism toward the protections often reigned supreme, it is also true that a basic understanding of the international dynamic that drove the protections filtered down to local officials. A case from August 1935 reveals that even local police officers understood the ramifications of the Jewish protections for Germany’s international reputation. Residents of Gleiwitz awoke on August 17 to the sight of dozens of antisemitic posters advertising the banned *Stürmer*, including some pasted on the door of the city’s synagogue. When police were dispatched to take down the posters, an SA member began photographing officers. He told the officers he planned to send the evidence to the *Stürmer* headquarters. While Wagner, enraged by the insubordination, demanded that the SA member be tried for insulting a civil servant, the reaction of the police officer is more telling. The officer told the rogue SA photographer, “Unfortunately the Jews in Upper Silesia have a special privilege. The Jews merely wait for such incidents, to spread news of them internationally.”¹⁰⁸ The officer showed a basic understanding of the consequences of the Geneva Accord. In performing his job, he assented to the rule of law despite claiming that Jews did not deserve the protections. This suggests, at the very least, that Wagner’s regional authority held sway, and that some sectors of the civil service continued to function according to the exceptional rule of law for Upper Silesia.

Even as administrative sabotage and violent antisemitism compromised the protections, the benefits to Upper Silesian Jews remained palpable. The limits to government repression secured by the Jewish Union and by Calonder created a discernable improvement in conditions compared to the rest of the Reich. For Willy Cohn, a historian and Zionist living outside the protection zone in Breslau, Upper Silesia came across as a different world. Cohn’s

¹⁰⁷Letter by Gleiwitz Polizeipräsident to Regierungspräsident, APO, RO I, Syg. 2011.

¹⁰⁸APO, RO I, 2011.

acquaintances in law and government held onto their jobs long after those elsewhere in Germany. During visits Cohn immediately saw that social exclusion was markedly diminished; signs on cafes or public facilities banning Jews were far rarer. The moral effect of these seemingly small victories is impossible to quantify, but Cohn saw Upper Silesia's Jews as more dignified in their daily lives than his neighbors in Breslau.¹⁰⁹ The protections suggest that, for all the local variation and initiative in Nazi antisemitic policy, the national legal framework of exclusion was central in structuring the social conditions of anti-Jewish sentiment. With these laws absent in Upper Silesia, the bounds of social exclusion also appeared to change in small ways. In the words of one Jewish activist who followed regional conditions, Upper Silesia was no "paradise," but neither was it an "inferno."¹¹⁰

If Upper Silesia was planted metaphorically in that broad space between heaven and hell, many who were closest to the protections in fact chose a metaphor drawn from nature to explain the special status for regional Jews. Upper Silesia was a "nature preserve" (*Naturschutzpark*, *Nationalpark*, or *Naturschutzgebiet*), a zone of special protection cordoned off from the rest of the Reich.¹¹¹ This metaphor from the burgeoning environmental movement in the early twentieth century suggests that those living through Upper Silesian Jewish protections—as beneficiaries, bystanders, or malcontents—saw implicit, yet variable, analogies to nature preservation. Such an analogy gained traction in an atmosphere of increased attention paid by the Nazi government to the agenda of nature preservationists.¹¹² Few contemporary observers seemed to have worked out the ironies and contradictions in calling Upper Silesia a Jewish nature preserve; no one bothered to pen a treatise on its significance. But the term nonetheless suggests a broad-based awareness that Upper Silesia constituted a special protection zone within the Reich where the "normal" rules of antisemitism failed to apply.

For antisemitic critics of the protections, the term likely suggested a cynical attitude toward preserves as places of artificial restrictions upon the course of natural selection. This negative evaluation of a "nature preserve" stands in juxtaposition to the push by Nazi leaders to establish and promote nature preserves as national

¹⁰⁹Cohn, *Kein Recht, Nirgends*, 162. Cohn also noted better conditions in Upper Silesia on 105, 128, 129.

¹¹⁰These words came from the memoirs of Nathan Feinberg, a Jewish leader associated with the Comité, quoted in Graf, *Die Bernheim-Petition 1933*, 282.

¹¹¹See Cohn, *Kein Recht, Nirgends*, 162, 166; Weissmann, "Die Durchsetzung des jüdischen Minderheitsrechts," 189; Stauffer, *Polen—Juden—Schweizer*, 83.

¹¹²Notable recent literature on nature conservation in Nazi Germany includes Thomas M. Lekan, *Imagining the Nation in Nature: Landscape Preservation and German Identity, 1885–1945* (Cambridge, MA: Harvard University Press, 2004), chaps. 4–5; Frank Uekötter, *The Green and the Brown: A History of Conservation in Nazi Germany*, Studies in Environment and History (Cambridge: Cambridge University Press, 2006); Franz-Josef Brüggemeier, Mark Cioc, and Thomas Zeller, eds., *How Green Were the Nazis? Nature, Environment, and Nation in the Third Reich* (Athens, OH: Ohio University Press, 2005); Joachim Radkau and Frank Uekötter, eds., *Naturschutz und Nationalsozialismus* (Frankfurt [am Main]: Campus, 2003).

treasures. For Jewish beneficiaries in the protection zone, the term likely connoted a mix of relief and self-deprecating humor born of hardship. If Upper Silesia was not quite a Garden of Eden, it nonetheless offered for many Jews a preternatural respite from the laws of Nazi society. Just as preserves promise a temporal dislocation to nature as it once was, so did the Jewish protections promise to move the clock back to a time of legal equality, before Nazi antisemitism destroyed livelihoods and lives. The analogy between Jews and animal or plant species also remained implicit. Given especially Nazi propaganda meant to dehumanize Jews (including comparisons to rats, toadstools, etc.), the analogy to nature protection in Upper Silesia carried more than a dose of irony. The “preserve” also highlighted the exceptionality of Upper Silesia within Germany. Preserves typically create special rules to protect threatened species that often cannot thrive beyond artificial boundaries of protection. In being in a “nature preserve,” Jews relied on special provisions that distinguished them as vulnerable, helpless, and in need of protection. For Jews, this vulnerability was reinforced by the need to stay within Upper Silesia. The borders of the Jewish “nature preserve” not only served as a guard against Nazi laws, but also as a fence beyond which Jews could not venture without endangering their livelihoods. By labeling and talking about the region as a “nature preserve,” Upper Silesians pointed to both the exceptional and the precarious nature of the Jewish protections. The expiration of the Geneva Accord, a harder line among regional officials, or even a decline in Polish-German relations could all threaten to topple the protections. Their eventual termination, on July 15, 1937, would highlight just how much Jews had gained in the Upper Silesian “preserve,” and just how much they were about to lose.

* * *

Upper Silesia was not the only area under Nazi control in which Jews enjoyed greater legal rights than in most of Germany. Hitler proved willing to compromise on antisemitic policy elsewhere along Germany’s territorial margins. These capitulations in zones of limited German sovereignty serve as useful comparisons to Upper Silesia. Two cases in particular deserve highlighting: the Saar and Danzig. As a condition for the full return of the Saar to German control in 1935, Hitler accepted a one-year delay, until March 1936, in the implementation of many Nazi antisemitic laws. As a result, Jewish (and non-Jewish) citizens could emigrate without being subject to the Reich Flight Tax. Many Jews, as well as socialists and other targets of Nazi oppression, escaped with their wealth intact. Yet this special legal status did little to hinder the pace of Jewish exclusion and persecution in the Saar in 1935.¹¹³ Much like in Upper Silesia, the Saar

¹¹³Gerhard J. Teschner, “Saargebiet,” in *Das “Großdeutsche Reich,”* ed. Gruner, 49–74.

became a zone of temporary exclusion for many antisemitic laws. But Saar residents lacked the elaborate mechanisms in Upper Silesia that gave citizens the right of legal appeal against domestic discrimination. Nor did the Nazi government have a minority across the border, as in the case of Germans in Polish Upper Silesia, whose protection relied in part on reciprocal protections within Germany's border. Despite signing a promise to protect Jews similar to that in Upper Silesia, Nazi Germany suffered few potential consequences for noncompliance in the Saar.

The case of the Free State of Danzig, which also yielded concessions in antisemitic policy, reveals greater overlap with Upper Silesian policy. The League of Nations city-state, although much smaller in total population than Upper Silesia, had roughly the same number of Jews—around 10,000.¹¹⁴ In contrast to Upper Silesia, most Jews in Danzig were *Ostjuden*, or recent immigrants from Poland or other points eastward. The Polish government took a stake in protecting its Polish and Jewish citizens in Danzig beyond the safeguards already in place in the League-backed constitution. Thus, even as Danzig politics was largely Nazified in 1933, it proved impractical for Berlin to force a synchronization of antisemitic law for fear of stoking Poland. An August 1933 accord between Danzig and Poland ensured widespread cultural and economic freedoms to Polish citizens, including Polish Jews.¹¹⁵ Unlike in Upper Silesia, where Jews became a third-party beneficiary to a reciprocal German-Polish accord, in Danzig Jewish protections stemmed largely from direct Polish intervention. The results, however, were similar in both cases. Much like in Upper Silesia, legal safeguards for Jews in Danzig far exceeded those in the Reich, but they did not prevent street violence, unofficial boycotts, or tacit bans on hiring Jewish civil servants.¹¹⁶ Even after Berlin spearheaded a Nazi challenge to the Danzig constitution in summer 1936, paving the way for Nazi *Gleichschaltung* in the Free State, antisemitic policies were delayed. The head of the League Commission in Danzig after 1936, Carl Burckhardt, although weakened by Nazi abrogation of the constitution, still worked to delay the implementation of many antisemitic decrees in 1937 and early 1938. Not until November 1938 were the 1935 Nuremberg Laws fully enacted in Danzig.¹¹⁷ Because of Danzig's unique status as a Free State, Poland yielded more direct influence over internal policies than could be mustered in Upper Silesia, which belonged fully to the Reich.

¹¹⁴In 1929 there were 10,488 Jews counted in Danzig. Herbert S. Levine, *Hitler's Free City: A History of the Nazi Party in Danzig, 1925–1939* (Chicago: University of Chicago Press, 1973), 127.

¹¹⁵For provisions, see John Brown Mason, *The Danzig Dilemma: A Study in Peacemaking by Compromise* (Stanford, CA: Stanford University Press, 1946), 279–82.

¹¹⁶William W. Hagen, "Before the 'Final Solution': Toward a Comparative Analysis of Political Anti-Semitism in Interwar Germany and Poland," *The Journal of Modern History* 68, no. 2 (June 1, 1996): 357; Levine, *Hitler's Free City*, 65.

¹¹⁷Daniel Bogacz, *Fremde in einer freien Stadt. Deutsche, Polen und Juden in Danzig 1920–1939: Zur Minderheitenforschung in Ostmitteleuropa* (Bonn: n.p., 2004), 196.

As the Danzig and Saar cases show, Germany had learned to sacrifice antisemitism for other gains in foreign policy until at least 1937, not just in Upper Silesia, but also in other areas of limited or contested sovereignty. Upper Silesia's policy, moreover, can be seen in part as a regional capitulation to broader foreign policy interests. Until 1936 Danzig *Gauleiter* Albert Forster and senate president Arthur Greiser were forced to prioritize friendly relations with Poland over aggressive nazification of Danzig.¹¹⁸ Only after the successful regaining of the Saar and remilitarization of the Rhineland did Hitler feel comfortable pressing the Danzig issue, and even then only within defined limits. Danzig in 1934–1936 clearly took a back seat in overall Nazi foreign policy to regaining full sovereignty over western borderland territories. Upper Silesian minority policy, in turn, proved less important than other areas of German foreign policy along its eastern border. German-Polish diplomatic wrangling over Danzig far exceeded that over Upper Silesia and set the tone generally for relations between the two countries. Open defiance of the Geneva Accord for Upper Silesia would have hurt Germany's stance with the League and with Poland during a period when Nazi foreign policy prioritized other conflicts.

The shifting dynamic in German-Polish foreign relations in 1935–1937, in particular, made renewal of the Upper Silesian protections increasingly unlikely and renewal for Jewish protections all but impossible. Despite signing the 1934 Nonaggression Pact with Germany, Poland maintained tumultuous relations with its western neighbor. Polish fears of German foreign policy aggressiveness increased steadily, particularly after 1936, with the remilitarization of the Rhineland and the intensified nazification of Danzig. The general weakening of League authority, caused in large part by Germany's withdrawal, also gave Poland greater opportunity to renege on its own minority treaty commitments. Foreign Minister Józef Beck's September 1934 statement to the League Assembly, in which he deemed the system of protections "a complete failure" and unilaterally withdrew Poland from League oversight, shocked European leaders.¹¹⁹ While Germany approved of the Polish withdrawal because it dealt a blow to the authority of the League of Nations, persecution against the German minority soon escalated throughout Poland.¹²⁰ This deterioration in the treatment of German minorities began just months after the January 1934 signing of the Nonaggression Pact had signaled the possibility of improving relations.

As Germans in Upper Silesia and elsewhere in Poland suffered greater harassment, Berlin began reconsidering its hefty financial support to maintain these communities. By early 1935 the German Foreign Ministry noted declining conditions in Polish Upper Silesia, including seizures of German commercial

¹¹⁸Weinberg, *Hitler's Foreign Policy*, 196–198.

¹¹⁹Beck's speech to League Assembly on September 13, 1934, in Peter D. Stachura, *Poland, 1918–1945: An Interpretive and Documentary History of the Second Republic* (London and New York: Routledge, 2004), Doc. 70, 91.

¹²⁰Raitz von Frentz, *A Lesson Forgotten*, 246.

enterprises and dismissal of German employees. The German government had given nearly 162 million marks alone to support one firm, I. G. Kattowitz, which was facing Polish threats of expropriation. These funds were seen as unsustainable and wasted if they failed to halt de-Germanization processes in Polish Upper Silesia.¹²¹ At a meeting in February 1935 between von Neurath and Józef Lipski, the Polish ambassador to Germany, Neurath threatened retaliation against Poles in Germany if the actions in Polish Upper Silesia did not cease.¹²² Nonetheless, given the seeming futility of fighting persistent Polish persecution of German-backed businesses, the Foreign Ministry agreed by late February to curtail government funds to support industry in Polish Upper Silesia.¹²³ By 1935 a transition was taking place in which support for the German minority was scaled back in Polish Upper Silesia. With every decrease in support for Germans in Poland, the incentives to protect Poles, or Jews, in German Upper Silesia became weaker.

An increase in official Polish antisemitism also changed the incentives for Nazi Germany to protect Jews in Upper Silesia. Under the authoritarian rule of Józef Piłsudski from 1926–1935, antisemitism had largely been organized by the right-nationalist *Endecja* party. But aside from quotas placed on Jewish university enrollment after violent demonstrations, antisemitism in Poland under Piłsudski never took on the form of overt legal discrimination, nor did it manifest itself through large-scale violence.¹²⁴ Poland also quietly defended the legal rights of its Polish-Jewish citizens in Nazi Germany. They did this partly to create goodwill with western allies and international Jewish groups that monitored Polish treatment of Jews, and partly to prevent the large-scale return to Poland of these Jews, many of whom emigrated before 1918 and hardly spoke Polish.¹²⁵ After Piłsudski's death in May 1935, however, conditions significantly deteriorated for Polish Jews. In April 1936 ritual slaughter was limited to the proportions

¹²¹Foreign Ministry memorandum of February 19, 1935, in *Documents on German Foreign Policy, 1918–1945*, Series C, vol. 3 (Washington, D.C.: U.S. Government Printing Office, 1959), Doc. 496.

¹²²Memorandum of February 21, 1935, by Konstantin von Neurath, in *ibid.*, Doc. 498.

¹²³The decision to halt funds is referred to in footnote 6 of the February 19, 1935, memorandum; *ibid.*, Doc. 496.

¹²⁴Jerzy Tomaszewski, "The Civil Rights of Jews in Poland, 1918–1939," in *Polin: Studies in Polish Jewry*, vol. 8, *Jews in Independent Poland, 1918–1939* (Oxford and Portland, OR: Littman Library of Jewish Civilization, 2004), 125; Emanuel Melzer, *No Way Out: The Politics of Polish Jewry, 1935–1939* (Cincinnati, OH: Hebrew Union College Press, 1997), 7.

¹²⁵On the desire to create goodwill, see the 1933 statement of the future Polish ambassador to Berlin, Józef Lipski, *Diplomat in Berlin, 1933–1939: Papers and Memoirs of Józef Lipski, Ambassador of Poland* (New York: Columbia University Press, 1968), 89. On the fear of Jews returning to Poland, see Jerzy Tomaszewski, *Auftakt zur Vernichtung. Die Vertreibung polnischer Juden aus Deutschland im Jahre 1938* (Osnabrück: Fibre, 2002), 63. In 1933 roughly 56,000 Jews of Polish citizenship lived in Germany. "Volkszählung. Die Bevölkerung des Deutschen Reiches nach den Ergebnissen der Volkszählung 1933," *Statistik des Deutschen Reiches*, vol. 451, no. 4, *Die Ausländer im Deutschen Reich*, 31.

deemed necessary to feed the Jewish population.¹²⁶ Although further antisemitic laws were only proposed in 1938–1939, the promotion of measures meant to exclude Jews economically and promote their emigration had become, by 1937, a political goal tacitly shared by the ruling coalition and Endecja. With the Polish Socialist Party (PPS) withdrawing much of its former support for legal equality, the Endecja and other groups escalated antisemitic violence. An estimated 2,000 Jews were injured, and twenty to thirty killed, in attacks between 1935 and 1937.¹²⁷ Polish Upper Silesia was not exempt from such violence.¹²⁸ Given the dynamics of minority protection in German–Polish relations, the incentive for Polish protection of Jews in Upper Silesia did not exist in the same way that Germany felt the need to honor its Geneva Accord commitment for Jews, out of fear of maltreatment of Germans in Poland.

With the reciprocal incentives in the Geneva Accord being undermined by the broader deterioration of German–Polish relations, and with increased Polish anti-semitism, the prospects by late 1935 for continued enforcement of Jewish protections in Nazi Upper Silesia (let alone renewal) looked increasingly dim. Indeed, Nazi regional leaders in Upper Silesia attempted to exploit Polish antisemitism by seeking signals from their Polish counterparts across the border that would allow Germany to delay, ignore, or reject Jewish complaints. For example, after a Jewish complaint over exclusion from the regional Chamber of Commerce in 1935, Nazi Upper Silesian officials waited to feel out the Polish delegates to the Mixed Commission. Officials hoped that Polish goodwill would allow Germany to ignore the complaint without retaliation from Poland. While Upper Silesian administrators originally agreed to guarantee two spots in the Chamber for Jews, they revoked this deal after Polish promises not to exploit the issue.¹²⁹ Jewish protections were always precariously positioned as a pawn in German–Polish foreign policy and this decision demonstrated how easily the Jewish protections could be sacrificed through a backroom gentleman’s agreement. Without regional Polish exploitation of Nazi violations against Jews in order to pursue retaliatory anti–German measures in Poland, the force of the Jewish protections would be significantly weakened.

While the Geneva Accord protections were never formally abrogated before their expiration in July 1937, they increasingly stood out as anomalous amid declining German–Polish relations. Under these conditions, it is not surprising that any attempts to renew Upper Silesian protections bilaterally were likely to fail. While Germany had hoped to reconstitute some legal basis for protection of its German minority across the border, Poland scoffed at a new minorities

¹²⁶Tomaszewski, “The Civil Rights of Jews in Poland,” 125.

¹²⁷Joanna B. Michlic, *Poland’s Threatening Other: The Image of the Jew from 1880 to the Present* (Lincoln, NE: University of Nebraska Press, 2006), 114.

¹²⁸Piotrowski, “The Policies of the Sanacja,” 153–154; Michlic, *Poland’s Threatening Other*, 114.

¹²⁹APO, USMO, Syg. 550.

treaty. Polish foreign minister Józef Beck feared the consequences of continued legal obligations given increasingly aggressive nationalism from Nazi Germany. "On both sides of the frontier there would be large groups of citizens who would look for formal protection from the Government of the neighbouring state. Such a state of affairs would certainly be unbearable," Beck wrote.¹³⁰ This marked a clear repudiation of the basic incentives behind the Geneva Accord, which relied on the indirect protection of the German and Polish minorities by their respective states across the border through the mediation of the League. Without an agreement, the Geneva Accord expired, and in its wake came only a tepid declaration of mutual goodwill in November 1937 that was contradicted by quickly declining relations.¹³¹

Despite significant independent efforts by the Jewish Union to renew the treaty, League impotence and Nazi derision for the Jewish position made the task hopeless.¹³² Jewish protections were hardly discussed in the failed negotiations to renew the Geneva Accord. With League authority over minorities now discredited by Germany and Poland, any new protection treaty would have been constituted bilaterally, at which point Jews could have been easily excluded. In one internal Nazi planning meeting in December 1936 in Berlin, Wagner mentioned in passing that "the Jewish question would have to be left out of any future arrangement on minorities."¹³³ The continuation of Jewish protections was declared entirely off the table.

With the imminent expiration of the protections, many Jews braced themselves for a Nazi onslaught. The Jewish Union brought in a speaker from Berlin to advise local citizens how to respond most appropriately to upcoming anti-Jewish legislation.¹³⁴ Some foresaw the consequences. The Levy family in the district capital of Oppeln, for example, sold off the family business in June 1937 and planned to emigrate. One of the family members, Fritz Levy, appeared "fully directionless" to his friend and former teacher Willy Cohn.¹³⁵ In early July the Nazi government decreed that all Reich laws would come "automatically into force" in Upper Silesia as soon as the treaty expired. As the *Völkischer Beobachter* reported, "The Reich loyally granted minority protection from the Geneva Accord to Jewry in western Upper Silesia," but this tolerance was coming to an end on July 15.¹³⁶

¹³⁰ Beck, *Final Report*, 130.

¹³¹ *Ibid.*, 131.

¹³² Efforts at renewal detailed in Weissmann, "Die Durchsetzung des jüdischen Minderheitsrechts," 183–87.

¹³³ Minutes of the Conference of Heads of Departments Concerning Upper Silesia from December 18, 1936, in *Documents on German Foreign Policy, 1918–1945*, Series C, vol. 6 (Washington, D.C.: U.S. Government Printing Office, n.d.), Doc. 134, 271.

¹³⁴ Janusz Oszytko, "Jewish Matters in the 1930s in the Archives of the Opole Gestapo," in *Jews in Silesia*, ed. Marcin Wodziński and Janusz Spyra (Cracow: Księgarnia Akademicka, 2001), 388.

¹³⁵ Diary entry from June 8, 1937, in Cohn, *Kein Recht, Nirgends*, 440.

¹³⁶ "Rassengesetzgebung in Westoberschlesien," *Völkischer Beobachter*, July 5, 1937, no. 186, 3.

Despite these preparations and warnings, Weissmann noted that “In many cases only with the expiration of the Geneva Accord did Upper Silesian Jews even realize the meaning of the minority protections.”¹³⁷ The swift, brutal Nazi Gleichschaltung of Jewish policy in Upper Silesia began just days after July 15. Jewish lawyers and civil servants were fired, while Jewish doctors lost their rights to participate in state-run hospitals and insurance plans. Jewish businesses were subject to renewed public boycotts, with many closed on specious grounds such as health-code violations. Jewish observers decried “pogrom-like attacks,” especially in economic matters. *Der Stürmer*, now fully legal in Upper Silesia, launched a full-scale propaganda assault urging violent repression.¹³⁸ In May 1938 the British counsel in Breslau sent a pithy report “that the treatment of the Jews throughout the province has now become entirely uniform. Unfortunately, this does not mean that they are treated equally well. It means, on the contrary, that they are all being treated equally badly.”¹³⁹ Through their swift end, the Jewish protections were made most palpable. From this point forward, the fate of Jews in Upper Silesia would be synchronized with the rest of the Reich.¹⁴⁰

The significance of the protections was not fully lost with the destruction and genocide that followed. In 1951 René Cassin—a French jurist considered crucial to the development of United Nations human rights declarations after World War II—reflected on the Bernheim case. Speaking in grand terms, Cassin saw the rise of an ideal of human rights in 1789, and then the beginning of its downfall in 1933 in Geneva. Germany’s failure to sign on to the League condemnation of its antisemitic policies in the Bernheim case, combined with Germany’s subsequent withdrawal from the League, represented for Cassin “a rupture . . . in the vital problem of human rights.”¹⁴¹ As historians have recently noted, this neat narrative that tied the downfall of minority rights under Nazi pressure to the emergence of human rights after World War II is highly problematic. The postwar triumph of human rights has recently been reframed by historians as an

¹³⁷Weissmann, “Die Durchsetzung des jüdischen Minderheitsrechts,” 189.

¹³⁸Individual attacks were recorded by regional officials in APO, RO I, 2012. See also the September 1937 report of “Union für Recht und Freiheit” from Prague in LNA, R3912. The Jewish Central Information Office, which claimed the “pogrom-like attacks,” filed a comprehensive report of antisemitic actions in Upper Silesia on August 11, 1937; reprinted in German in Gruner, ed., *Die Verfolgung und Ermordung der europäischen Juden*, vol. 1, 691–95, Doc. 292.

¹³⁹Quoted in Cartarius, “Schutz und Verfolgung,” 136.

¹⁴⁰Gruner, ed., *Die Verfolgung und Ermordung der europäischen Juden*, vol. 1, Doc. 292. More than 1,000 Jews of Polish citizenship continued to enjoy rights exceeding those of German Jews after July 1937, thanks to the advocacy of the Polish counsel in Upper Silesia. Any protections were rendered moot by the expulsion of non-German Jews from all of Germany in October 1938. See Weissmann, “Die Durchsetzung des jüdischen Minderheitsrechts,” 188.

¹⁴¹René Cassin, “La déclaration universelle et la mise en œuvre des droits de l’homme,” *Recueil des Cours, de l’Académie de Droit International* 79 (1951): 242; http://www.persee.fr/web/revues/home/prescript/article/ridc_0035-3337_1955_num_7_3_9552.

utter failure, with human rights only emerging in international discourse much later, in the 1970s.¹⁴² Yet while the triumph of human rights after 1945 has been questioned, the rapid downfall of a minorities system in 1933 has, for the most part, not. Insofar as the League continued to arbitrate Upper Silesian protections, this case still forms the exception that proves the rule of an overall decline of international order. Fit into this narrative, the League's Jewish protections in Upper Silesia from 1933–1937 can at best be seen as an anachronistic residue of an inadequate, dying system of minority protections.

Yet even when Weimar Germany's self-interested pursuit of minority rights across Europe was stripped down by the Nazis to reveal concern only for German minorities abroad, many of the broader normative mechanisms—and reasoning—of minority protections remained in place. The failure of the Versailles system has overshadowed the comparative success of the Geneva Accord, however modest or temporary the result. The ideals first enshrined in international law at Versailles found more effective enforcement through the detailed mechanisms and more robust rights for Upper Silesians negotiated in Geneva. The threat of retaliation from an opposing state gave teeth to the protections both before and after the Nazi rise to power. The Geneva Accord continued to function as the effective mechanism of minority protections because it continued to represent the fundamental interests of both states involved. The position of Jews as a third party in this bilateral bargain always proved precarious. Ironically, Jews in German Upper Silesia relied indirectly on interwar Poland, a state that systematically marginalized its own Jews, to enforce the protections. Despite this precarious position of Jewish protections in the broader matrix of German-Polish relations, the Geneva Accord actually worked—for a brief few years—to provide tangible benefits to Upper Silesia's Jews.

Until Nazi Germany gained the strength necessary to dissolve minority rights through force and conquest, Hitler was forced to exploit the principle of equality of nations, each guaranteeing minority rights and protecting against the declared enemy of assimilation. Hitler most famously proclaimed this conciliatory policy of the early Nazi regime the very same day the Bernheim Petition reached Geneva, May 17, 1933.¹⁴³ This policy was pursued most openly with Poland, a state home to more than a million German speakers and a main target of German revisionist hopes. Thus, while Germany chafed against League authority, it continued to endorse the general maintenance of minority protections. In this sense, the Geneva Accord continued to exert a subtle normative force over international relations in central Europe even after its legal basis in League authority had

¹⁴²Mark Mazower, *No Enchanted Palace: The End of Empire and the Ideological Origins of the United Nations* (Princeton, NJ: Princeton University Press, 2009); Samuel Moyn, *The Last Utopia: Human Rights in History* (Cambridge, MA: Belknap Press of Harvard University Press, 2010).

¹⁴³On the context of the May 17, 1933, speech, particularly in relation to German foreign policy toward Poland, see Weinberg, *Hitler's Foreign Policy*, 76–81.

been repudiated by Germany in 1933 and Poland in 1934. Building the Nazi *Volksgemeinschaft* from 1933–1937 from a relatively weakened international stance required Germany to embrace some forms of minority protection, not just for Germans abroad, but also for Poles, and Jews, at home.

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