

**PIUS XII AND THE JEWS:
The War Years – as Reported by the *New York Times***

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I. INTRODUCTION

[1] In 1998, the Vatican issued a document entitled, “We Remember: A Reflection on the Shoah.”¹ The result was a flurry of interest in the Catholic Church’s activities during the Holocaust.

[2] In response to those who question what the Roman Catholic Church did during World War II concerning the Nazi’s and their racial policies, I decided to conduct a brief research project by employing readily available historical sources that would reveal the contemporary scene during the War. I found that one of the most accessible sources of information concerning the War years is the *New York Times (Times)*. Most major American libraries (university, public, or private) have the *New York Times* on microfilm with a thorough index. While it is not a comprehensive source, the *Times* is a marvelous source of contemporary information that has rarely been used by historians in their treatment of the War.² It provides

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¹ at http://www.vatican.va/roman_curia/pontifical_councils/chrstuni/documents/rc_pc_chrstuni_doc_16031998_shoah_en.html (Mar. 16, 1998).

² The only scholarly work employed in this work is by Sister CLAUDIA CARLEN, *THE PAPAL ENCYCLICALS, 1903-1939* (1981) [hereinafter CARLEN 1903-1939]; *THE PAPAL ENCYCLICALS, 1939-1958* (1981) [hereinafter CARLEN 1939-1958]; see *THE PAPAL ENCYCLICALS* at <http://www.papalencyclicals.net/> (last visited August 23, 2002).

An encyclical is “a circular letter . . . from the pope to the archbishops and bishops of the Roman Catholic Church (occasionally to those of one country only), dealing with ecclesiastical, moral,

insight into what was known by the public, along with the policies and public activities of the Church regarding European Jewry and the Nazis. This article reports what the *New York Times* reported and commented upon concerning Pope Pius XII. It is as complete as was the *Times* in its reporting; if the *Times* did not report an event during the War then that event is not considered in this paper.

[3] The commonly held belief, propagated first by the communist party near the end World War II and popularized since the 1963 production of Rolf Hochuth's play, "The Deputy,"³ is that Pope Pius XII dropped the ball, and that the Church did little to stop, even though it did not actively support, the genocide committed by the Fuhrer and the Duce. Yet, the *New York Times* provides a very different view. It reported that Popes Pius XI and XII repeatedly spoke out against the racist policies of the totalitarian governments and that they both worked to save thousands of Jews from extermination. Among the many Jewish voices raised during the War to extol Pius XII and the Church was that of Albert Einstein. Einstein stated that

[o]nly the Church stood squarely across the path of Hitler's campaign for suppressing the truth. I never had any special interest in the Church before, but now I feel a great affection and admiration because the Church alone has had the courage and persistence to stand for intellectual truth and moral freedom. I am forced thus to confess that what I once despised I now praise unreservedly.⁴

[4] The *New York Times* is proof that Pope Pius XII and the Church did much to save the Jews and that the entire world applauded the Pope and publicly thanked him for his efforts. The

theological or social questions." THE NEW LEXICON WEBSTER'S DICTIONARY OF THE ENGLISH LANGUAGE 310 (2d ed. 1989).

³ ROLF HOCHUTH, THE DEPUTY (Richard Winston & Clara Winston trans., Grove Press 1964) (1963).

⁴ *German Martyrs*, TIME, Dec. 23, 1940, at 38 (internal quotations omitted).

Times also reported that both the Pope and the Church hierarchies in Europe recognized and condemned the horrible reality of Hitler's ultimate goal. Hitler worked to redefine the human person, making them drones of the deified state, destroying peoples and institutions that did not fit into his new world order. Among the many victims were the Jews and the Church.

[5] There are four sections to this article: an introductory section that presents the moral and theological principles established by Popes Pius XI and XII relative to totalitarian governments. Pope Pius XI was the first to face the Nazi and Fascist regimes. The principles he set forth and the work he began formed the basis for the work of Pope Pius XII. The article then discusses the application of these principles by the Church in defense of the Jews. Next, the article will address the Nazi reaction to the Church's protests against the Nazi and Fascist governments and, finally, it will consider the origin of the alleged silence and pro-Nazi sentiments of Pope Pius XII.

II. THE MORAL AND THEOLOGICAL PRINCIPLES OF POPE PIUS XI AND POPE PIUS XII

[6] On February 6, 1922, Ambrogio Damiano Achille Ratti was elected Pope and took the name Pius XI.⁵

[7] Europe was in shambles following World War I. Pope Pius XI attempted to offer a stabilizing influence by working to maintain peace. He was determined to work for a lasting world peace forged by the efforts of the Church.⁶ Under the rule of Christ the King, the Church would labor to unify the nations of the world and uphold the natural rights of God's image, the

⁵ CARLEN 1903-1939, *supra* note 2, at 223.

⁶ *Id.*

human person, hence the origin of the liturgical Solemnity of Christ the King. A Christian anthropology diametrically opposed to that held by the emerging totalitarian governments was essential to his efforts. Pope Pius XI outlined this anthropology repeatedly in his encyclicals condemning the underlying principles of totalitarian governments.⁷

[8] For Pius XI and Pius XII, the fundamental errors of modern society were 1) the denial of Natural law as the foundation of all public law, including international law; 2) the deification of the state and the resulting excessive nationalism; and 3) racism, which glorified a mythological purity of race. The result of these three errors was the removal of God from His creation and the consequent debasing of the human person in modern society. God was replaced by the state; the individual human person became its servant, a mere cog in the totalitarian national machinery of Communist Russia, National Socialist Germany, and Fascist Italy. Men and women derived their dignity from their usefulness and productivity in the state. Those deemed undesirable by the all-powerful state could be easily eliminated. Hence, the question of race became important, especially within the Nazi sphere of influence. Questions regarding the dignity of man, the rights of the human person, and the “final solution” for undesirable races, groups, and individuals were all considered political questions with political solutions by the totalitarian governments. But questions concerning race and the deification of the state are religious in nature, and Popes Pius XI and XII dealt with them as religious questions despite

⁷ See, e.g., POPE PIUS XI, *ACERBA ANIMI: ENCYCLICAL OF POPE PIUS XI ON PERSECUTION OF THE CHURCH IN MEXICO* (1932), *reprinted in* CARLEN 1903-1939, *supra* note 2, at 484; POPE PIUS XI, *NON ABBIAMO BISOGNO: ENCYCLICAL OF POPE PIUS XI ON CATHOLIC ACTION IN ITALY* (1931), *reprinted in* CARLEN 1903-1939, *supra* note 2, at 445.

protests by the totalitarian governments of Hitler and Mussolini that the Pope was interfering in political matters.⁸

[9] In his encyclical *Mit brennender Sorge*,⁹ Pius XI wrote:

Whoever exalts race, or the people, or the State, or a particular form of State, or the depositories of power, or any other fundamental value of the human community – however necessary and honorable be their function in worldly things – whoever raises these notions above their standard value and divinizes them to an idolatrous level, distorts and perverts an order of the world planned and created by God; he is far from the true faith in God and from the concept of life which that faith upholds

None but superficial minds could stumble into concepts of a national God, of a national religion; or attempt to lock within the frontiers of a single people, within the narrow limits of a single race, God, the Creator of the universe, King and Legislator of all nations before whose immensity they are “as a drop of a bucket”

You will need to watch carefully, Venerable Brethren [Catholic Hierarchy of Germany], that religious fundamental concepts be not emptied of their content and distorted to profane use. “Revelation” in its Christian sense, means the word of God addressed to man. The use of this word for the “suggestions” of race and blood, for the irradiations of a people’s history, is mere equivocation. False coins of this sort do not deserve Christian currency. “Faith” consists in holding as true what God has revealed and proposes through His Church to man’s acceptance. It is “the evidence of things that appear not.” The joyful and proud confidence in the future of one’s people, instinct in every heart, is quite a different thing from faith in a religious sense. To substitute the one for the

⁸ Pius XI reiterated traditional Roman Catholic theology: there is only one God, the creator of the universe, who established laws, natural laws, written in the hearts of men. To Him alone is worship offered, not to the state. God created men and women in His image and likeness, and they are perfected by the redeeming sacrifice of Christ. No individual, power, institution, government, or state may take this inherent dignity from any human person. We are only fully human and our work truly human when ordered to please God in accord with His natural law.

⁹ POPE PIUS XI, *MIT BRENNENDER SORGE*: ENCYCLICAL OF POPE PIUS XI ON THE CHURCH AND THE GERMAN REICH (1937), *reprinted in* CARLEN 1903-1939, *supra* note 2, at 525 [hereinafter *MIT BRENNENDER SORGE*].

other, and demand on the strength of this, to be numbered among the faithful followers of Christ, is a senseless play on words, if it does not conceal a confusion of concepts, or worse

Such is the rush of present-day life that it severs from the divine foundation of Revelation, not only morality, but also the theoretical and practical rights. We are especially referring to what is called the natural law, written by the Creator's hand on the tablet of the heart and which reason, not blinded by sin or passion, can easily read. It is in the light of the commands of this natural law, that all positive law, whoever be the lawgiver, can be gauged in its moral content, and hence, in the authority it wields over conscience. Human laws in flagrant contradiction with the natural law are vitiated with a taint which no force, no power can mend. In the light of this principle one must judge the axiom, that "right is common utility," a proposition which may be given a correct significance, it means that what is morally indefensible, can never contribute to the good of the people. But ancient paganism acknowledged that the axiom, to be entirely true, must be reversed and be made to say: "Nothing can be useful, if it is not at the same time morally good." Emancipated from this oral rule, the principle would in international law carry a perpetual state of war between nations; for it ignores in national life, by confusion of right and utility, the basic fact that man as a person possesses rights he holds from God, and which any collectivity must protect against denial, suppression or neglect. To overlook this truth is to forget that the real common good ultimately takes its measure from man's nature, which balances personal rights and social obligations, and from the purpose of society, established for the benefit of human nature. Society, was intended by the Creator for the full development of individual possibilities, and for the social benefits, which by a give and take process, every one can claim for his own sake and that of others. Higher and more general values, which collectivity alone can provide, also derive from the Creator for the good of man, and for the full development, natural and supernatural, and the realization of his perfection. To neglect this order is to shake the pillars on which society rests, and to compromise social tranquility, security and existence.¹⁰

[10] During the last years of his life, Pius XI condemned Nazi and Fascist notions of race, blood, soil, and nation. He referred to the Nazi swastika as "the cross which was not the Cross of

¹⁰ MIT BRENNENDER SORGE, *supra* note 9, para. 8, at 527, para. 11, at 527, para. 23, at 530, para. 30, at 531-32 (internal citations omitted).

Christ.”¹¹ On one occasion, during a papal audience for French nuns, the Pope decried the anti-Semitic laws of Germany and Italy as direct results of “excessive nationalism.”¹² He spoke of a “great question at present agitating the world under the name of nationalism, a nationalism in many ways exaggerated – an ill-conceived nationalism which we have already had painful occasion to denounce as erroneous and dangerous.”¹³ Frank J. Hogan, President of the American Bar Association, relayed words spoken by the Pope in September 1939 before a group of pilgrims; the Pope declared, “Abraham is called our patriarch, our ancestor. Anti-Semitism is not compatible with the reality of this text; it is a movement which Christians cannot share. No, it is not possible for Christians to take part in anti-Semitism. We are Semites spiritually.”¹⁴ Pope Pius XI battled against the Italian government’s implementation of laws against the Jews, and condemned the violence against the Church wherever Nazi influence held sway.¹⁵

[11] Near the end of his life, British Prime Minister Neville Chamberlain met with Pius XI to discuss racial and religious persecution in Europe. The *New York Times* editorialized that

¹¹ Edwin L. James, *Election of New Pope Important to Europe*, N.Y. TIMES, Feb. 12, 1939, § 4, at 3 (internal quotations omitted).

¹² Castel Gandolfo, *Pope Pius Assails Super-Nationalism as Breach of Faith*, N.Y. TIMES, July 17, 1938, §1, at 1 (internal quotations omitted).

¹³ *Id.* (internal quotations omitted).

¹⁴ *Mundelein Denies Views of Coughlin Represent Church*, N.Y. TIMES, Dec. 12, 1938, § 1, at 1 (internal quotations omitted).

¹⁵ Arnaldo Cortesi, *Pius XI Deplores Fascist Hostility; Reveals Incidents*, N.Y. TIMES, Dec. 25, 1938, § 1, at 1.

the meeting “was intended as recognition of a moral alignment which unites those who strive to buttress the established moral order against a new worship of force, race or State.”¹⁶

[12] One of the last tributes to Pope Pius XI during his lifetime came from the World Jewish Congress, meeting in Geneva in January 1939.¹⁷ The Administrative Committee adopted resolutions pertaining to the Jewish people of Europe.¹⁸ One of those resolutions stated,

We record the Jewish people’s deep appreciation of the stand taken by the Vatican against the advance of resurgent paganism which challenges all traditional values of religion as well as inalienable human rights upon which alone enduring civilization can be founded. The Congress salutes the Supreme Pontiff, symbol of the spiritual forces which under many names are fighting for the re-establishment of the rule of moral law in human society.¹⁹

[13] In the brief period between the death of Pope Pius XI and the election of his successor,²⁰ the *Times* reported that

the Jewish issue in Italy is growing more intense and is one of the gravest of the many serious problems being considered by the Cardinals who will enter the conclave . . . to elect a new Pope

That the [Italian government’s] feeling against the church since the stand that Pope Pius [XI] took on the anti-Jewish policies of Germany and Italy is much stronger in Rome seems certain.²¹

¹⁶ Anne O’Hare McCormick, *Europe: Progress as to Refugees May Test Effects of Rome Talks*, N.Y. TIMES, Jan. 16, 1939, at 14.

¹⁷ *Jewish Congress Bars Ransom Plan*, N.Y. TIMES, Jan. 17, 1939, at 1.

¹⁸ *Id.*

¹⁹ *Id.* (internal quotations omitted).

²⁰ CARLEN 1939-1958, *supra* note 2, at 3.

²¹ Michael Williams, *Cardinals Discuss a Policy on Jews*, N.Y. TIMES, Feb. 28, 1939, at 6.

[14] Eugenio Maria Giuseppe Giovanni Pacelli was elected Pope on March 2, 1939, and took the name Pius XII.²² Immediately after his election, Pius XII met with the German cardinals, who had been present in the conclave, in order to ascertain the real situation of the Church in Nazi Germany. These meetings influenced his decision to issue a call for a peace conference at the Vatican, and provided him with the direct proof and information that became the content of his first encyclical, *Summi Pontificatus*, dated October 20, 1939.²³ The encyclical commenced his efforts to defend the dignity of the human person in general and the Jewish people in particular.

[15] In *Summi Pontificatus*, Pius XII linked his works to those of Pius XI,

We should take the opportunity of paying homage to the King of kings and Lord of lords as a kind of Introit prayer to Our Pontificate, in the spirit of Our renowned predecessor [Pius XI] and in the faithful accomplishment of his designs . . . by consecrating them all to the spread of the Kingdom of Christ.²⁴

[16] Pope Pius XII lay to rest any thoughts that he would follow a plan more conciliatory to the totalitarian states than did his predecessor. Pius XII employed the weapons in his arsenal – prayers, the liturgy, words, and international law – to reveal the truth about the governments that threatened to debase and destroy the human person by the deification of the state; to restore the foundations of human society squarely upon natural law, the source of which is Christ – the only true ruler of all men, women, nations, and races. Pius XII asked, “What age has been, for all its technical and purely civic progress, more tormented than ours by spiritual emptiness and deep-

²² CARLEN 1939-1958, *supra* note 2, at 3.

²³ See generally POPE PIUS XII, *SUMMI PONTIFICATUS: ENCYCLICAL OF POPE PIUS XII ON THE UNITY OF HUMAN SOCIETY* (1939), *reprinted in* CARLEN 1939-1958, *supra* note 2, at 5 [hereinafter *SUMMI PONTIFICATUS*].

²⁴ *Id.* at para. 2, at 5.

felt interior poverty?”²⁵ The world had abandoned Christ’s cross for another [the Swastika] which brings only death.²⁶ The consecration of the world to Christ the King “is a penetrating wisdom which sets itself to restore and to ennoble all human society and to promote its true welfare.”²⁷

[17] The *New York Times* published an article by Anne O’Hare McCormick on October 30, 1939, which clearly expressed what was at stake:

The present war is fought for many ends. It is fought on various fronts with new methods. In a way, it is a war too big to fight, at least with military weapons, for the reason that its fundamental issue cannot be resolved on a battlefield, and everybody knows it. In the broadest sense it is a religious issue, and perhaps that is why the Pope has put his finger on it more surely than any secular statesman. The central theme of his long encyclical is the function of the State in the modern world, and that is the crux of the struggle of our time. The dictatorship of today is not simply a form of government; it is a form of life, a usurpation of every human and divine right, a growth of power so abnormal that it is like a tumor pressing on the whole social body and preventing other nations from functioning naturally.²⁸

[18] According to Pius XII, there were two errors resulting from the religious and moral agnosticism that was at the heart of the impending war.

[19] The first error was “the forgetfulness of that law of human solidarity and charity which is dictated and imposed by our common origin and by the equality of rational nature in all men, to whatever people they belong, and by the redeeming Sacrifice offered by Jesus Christ on

²⁵ *Id.* at para. 5, at 6.

²⁶ *See id.* at para. 6, at 6.

²⁷ *Id.* at para. 3, at 5.

²⁸ Anne O’Hare McCormick, *Europe: Function of the State is Real Issue*, N.Y. TIMES, Oct. 30, 1939, at 16.

the Altar of the Cross.”²⁹ This was an attack upon the racial theories of the Nazi regime. The dignity of an individual derives not from blood, race, nationality, or utility. We have a dignity no one can take away or diminish because we are made in the image of God.³⁰ This dignity is further ennobled by the sacrifice of Christ, a Jew.

[20] There is both a natural and a supernatural unity of all persons on the planet and throughout history,³¹ which even Hitler’s racist claims of blood and soil cannot supersede. The Pope took clear aim at Hitler’s racist ideology:

A marvelous vision, which makes us see the human race in the unity of one common origin in God “one God and Father of all, Who is above all, and through all, and in us all;” in the unity of nature which in every man is equally composed of material body and spiritual, immortal soul; in the unity of the immediate end and mission in the world; in the unity of dwelling place, the earth, of whose resources all men can by natural right avail themselves, to sustain and develop life; in the unity of the supernatural end, God Himself, to Whom all should tend; in the unity of means to secure that end.³²

[21] The Church recognizes and welcomes all peoples regardless of their individual characteristics or heritage.³³

Her aim is a supernatural union in all-embracing love

The Church hails with joy and follows with her maternal blessing every method of guidance and care which aims at a wise and orderly evolution of particular forces and tendencies having their origin in the individual character of each race, provided that they

²⁹ SUMMI PONTIFICATUS, *supra* note 23, para. 35, at 10.

³⁰ *Id.* at para. 36, at 10.

³¹ *Id.*

³² *Id.* at para. 38, at 10 (internal citation omitted).

³³ *Id.* at para. 44, at 11.

are not opposed to the duties incumbent on men from their unity of origin and common destiny.³⁴

[22] The second error was the deification of the state:

It is the error contained in those ideas which do not hesitate to divorce civil authority from every kind of dependence upon the Supreme Being – First Source and absolute Master of man and of society – and from every restraint of a Higher Law derived from God as from its First Source. Thus they accord the civil authority an unrestricted field of action that is at the mercy of the changeable tide of human will, or of the dictates of casual historical claims, and of the interests of a few.

Once the authority of God and the sway of His law are denied in this way, the civil authority as an inevitable result tends to attribute to itself that absolute autonomy which belongs exclusively to the Supreme Maker. It puts itself in the place of the Almighty and elevates the State or group into the last end of life, the supreme criterion of the moral and juridical order, and therefore forbids every appeal to the principles of natural reason and of the Christian conscience.³⁵

[23] The function of the state, according to Pius XII, is to “direct the private and individual activities of the national life . . . towards the common good.”³⁶ The common good is “defined according to the harmonious development and the natural perfection of man. It is for this perfection that society [the state] is designed by the Creator as a means.”³⁷ The state is a means to an end – the happiness of its citizens – and not an end in itself, in which the human person is relegated to the position of a cog.

³⁴ *Id.* at para. 44-45, at 11.

³⁵ *Id.* at para. 52-53, at 12.

³⁶ *Id.* at para. 59, at 13.

³⁷ *Id.*

[24] Pius XII pleaded that “the primary and essential cell of society, the family,” is “by nature anterior to the State” and its rights are sacrosanct, rights which the Church will defend against any encroachment by the State.³⁸

Goods, blood, it [the state] can demand; but the soul redeemed by God, never. The charge laid by God on parents to provide for the material and spiritual good of their offspring and to procure for them a suitable training saturated with the true spirit of religion, cannot be wrested from them without grave violation of their rights.³⁹

[25] The Pope saw Christ as the only solid foundation for any state or government. All other foundations are established on the shifting sands of human wisdom. For Hitler, blood, soil, and usefulness to the state were the criteria for determining who the human person is. The Church strenuously objected.

The Moral Order and the Human Person

[26] *Mit brennender Sorge*, of Pius XI, and *Summi Pontificatus*, of Pius XII, formed the basis of every protest against Nazi and Fascist policies made by the Church, either by the Vatican, the Popes themselves, or by local bishops and hierarchies.

[27] Without compromising his or the Church’s position, *super partes*, above the political fray, the Pope condemned the moral foundations of the Nazi and Fascist regimes. “In the first encyclical of his reign Pope Pius XII . . . denounced the violation of treaties, the ruin of Poland and the forcible transfer of populations and proclaimed his determination to fight the Church’s

³⁸ *Id.* at para. 61, 63, at 13.

³⁹ *Id.* at para. 66, at 14.

pagan enemies and defend the rights of family and individual against dictatorial encroachments.”⁴⁰

[28] To underscore his teaching of racial equality before God, Pope Pius XII ordained twelve native priests as bishops of missionary dioceses the day after the publication of his first encyclical in 1939.⁴¹ On November 10, 1939, during a routine address to Abel Nicholas Lege, the new Haitian ambassador to the Vatican, the Pope announced that natural law must be the basis of the modern state, that law and not force must rule, and that there is equality among all men, based upon the unity of mankind; no race is inferior.⁴²

[29] In January 1940, in protest of Italian racism, the Vatican appointed two Jewish members of the Vatican Academy of Science to “play a prominent role” in a scientific congress which would focus on “the problem of the age of the earth.”⁴³ In March, the Pope appointed another Jewish professor to the Vatican Library to restore ancient maps.⁴⁴ The appointment came a mere twelve hours before the new Italian laws prohibiting Jews from all professional life went into effect.⁴⁵

⁴⁰ Herbert L. Matthews, *Pope Condemns Dictators, Treaty Violators, Racism; Urges Restoring of Poland: The International Situation*, N.Y. TIMES, Oct. 28, 1939, at 1.

⁴¹ Herbert L. Matthews, *Pope Voices Hope for World Unity: Pius Suggests the Formation of ‘Stable and Fruitful’ Organization After War*, N.Y. TIMES, Nov. 11, 1939, at 1.

⁴² *See id.*

⁴³ *To Call Science Parley: Pontifical Academy Plans Session on Age of Earth*, N.Y. TIMES, Jan. 10, 1940, at 19.

⁴⁴ *Vatican Post Goes to Jew as Italy’s Ban is Imposed*, N.Y. TIMES, Mar. 2, 1940, at 1.

⁴⁵ *Id.*

[30] Near the Ides of March, the German Foreign Secretary, Joachim von Ribbentrop, came to the Vatican for an official visit. The *New York Times* reported that the Pope defended the Jews in Germany and Poland, and demanded “that Germany right the injustices she has done before there can be peace.”⁴⁶ The *New York Times* called the visit, “Hitler’s Canossa.”⁴⁷

[31] In a letter to the editor of the *New York Times*, the Provost of the Jewish Theological Seminary of America, Louis Finkelstein, reminded readers that the foundational concept of democracy is the “supreme worth and dignity of the individual. The hostility to all forms of religion, characteristic of modern totalitarianism, is directed at this most fundamental religious concept, and leads us to the conclusion that the preservation of freedom is inextricably bound to the preservation of religion.”⁴⁸ He further stated that it was “the Christian churches [that] offered resistance to the neo-pagans of the Third Reich. No keener rebuke has come to [N]azism than from Pope Pius XI and his successor, Pope Pius XII.”⁴⁹

[32] In his Christmas address to the College of Cardinals, Pius XII once again took aim at Hitler. The *New York Times* editorialized:

If the Pope in his Christmas message had intended to condemn Hitler’s system, he could not have done it more effectively than by describing the “moral order” which must govern human society The Pontiff pointed out that the foundation of the moral order is trust, “fidelity in the observance of pacts.” Without trust, he said – and this war has demonstrated the truth of his words – the coexistence of powerful and weak peoples is impossible. The moral order, he added, cannot be based on hatred, on the principle

⁴⁶ *Pope is Emphatic About Just Peace*, N.Y. TIMES, Mar. 14, 1940, at 8.

⁴⁷ *Id.* (internal quotations omitted).

⁴⁸ Louis Finkelstein, *Letters to the Times: Religious Tradition*, N.Y. TIMES, Mar. 31, 1940, § 4, at 8 (internal quotes omitted).

⁴⁹ *Id.*

that “might makes right,” on economic maladjustment, on “the spirit of cold egoism” which leads to the violation of the sovereignty of states and the liberty of their citizens. The moral order, in a word, is in complete contradiction to Hitler’s order.⁵⁰

II. THE CHURCH AND THE JEWISH COMMUNITY: DEFENDING THE DIGNITY OF THE HUMAN PERSON

[33] The Catholic hierarchies throughout Europe followed the lead of Popes Pius XI and Pius XII and spoke out against the racist, and in particular anti-Semitic, policies of the Nazi government as pursued in Germany and in all the occupied countries. The protests, both written and spoken, were based on and often quoted the encyclicals of these two Popes, especially once the deportation of the Jews began. For example, the *New York Times* reported that Bishop Fidel Garcia y Martinez, Bishop of Calahorra in Spain, condemned Nazi propaganda and racism in a pastoral letter published in February 1942, which was based on *Mit brennender Sorge*, the encyclical of Pope Pius XI.⁵¹ In his pastoral letter, the Bishop included text from the German Catholic Bishops’ 1941 pastoral letter from Fulda as well as sections from the pastoral letter by the Catholic Bishops in the Netherlands.⁵² As pointed out by the *New York Times*, circulation of Bishop Martinez’s pastoral letter was forbidden in Germany.⁵³

[34] The German Catholic Bishops issued a second pastoral letter on March 22, 1942, which was, like their first, a formal protest against the policies of the Nazi regime.⁵⁴ Both

⁵⁰ *The Popes Christmas Message*, N.Y. TIMES, Dec. 25, 1940, at 26.

⁵¹ *Nazi Acts Decried by Spanish Bishop*, N.Y. TIMES, May 24, 1942, at 4.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Nazi Acts Decried by Reich Bishops*, N.Y. TIMES, June 7, 1942, § 1, at 12 [hereinafter *Nazi Acts Decried by Reich Bishops*].

pastoral letters were read in every Catholic pulpit throughout Germany. The first letter was a general condemnation of Nazi doctrines. The second, read on Passion Sunday, vehemently protested Hitler's new policy of interfering in Church affairs and education, and strongly protested "specifically against all violations of personal freedom, against the killing of insane persons and the proposal to kill incurables," and the unjust seizure of individuals and property.⁵⁵

[35] On June 8, 1942, *The New York Times* expressed its opinion in an editorial: "A courage no less exalted than that of the Christian martyrs in pagan Rome inspires the Passion Sunday letter of the German Bishops read in all Catholic churches of the Reich."⁵⁶ After listing the Reich's atrocities as denounced by the Bishops, the editorial continued, "They [the Bishops] go on to show with irrefutable logic that this assault on the church is only part of a broader attack on all human rights, human freedom and the human spirit."⁵⁷

[36] Late in the summer of 1942, the Vichy government began its deportation of Jews in unoccupied France. Pope Pius XII intervened, attempting to save the Jews, joined by what the *New York Times* called "[a] spirited written protest against racial and religious persecution . . . by Emanuel Celestine Cardinal Suhard, Archbishop of Paris, and Pierre Cardinal Gerlier, Archbishop of Lyon."⁵⁸ The local bishops protested the government's action

after the Vatican had learned that the Germans asked for a round-up in both zones [occupied and unoccupied France] of German, Austrian, Polish, Czech, Baltic and Jewish refugees who sought safety in France after 1936. If those round-ups did not meet

⁵⁵ *Id.*

⁵⁶ *Call to German Conscience*, N.Y. TIMES, June 8, 1942, at 14 [hereinafter *German Conscience*].

⁵⁷ *Id.*

⁵⁸ *Vichy Seizes Jews: Pope Pius Ignored*, N.Y. TIMES, Aug. 27, 1943, at 3.

German needs for farm and mine labor in Silesia and Poland it was said they intended to ask extension of the round-up to include all expatriates who arrived in France after 1933, which would have included all Jews who migrated from Germany after Adolf Hitler's rise to power.⁵⁹

The *New York Times* editor called the Church's work "a noble insistence" to the Vichy government to save the Jews.⁶⁰

[37] On September 3, 1942, the *Times* reported that the French people were aiding Jews throughout the country, enabling them to avoid arrest and deportation.⁶¹ "The Vatican . . . repeated its past appeals to the Vichy government for tolerance for the Jews, but [the Vichy government] expressed inability to resist the German demands."⁶² Bishop Aliege of Toulouse openly denounced the Jewish persecution. In his pastoral letter, read from all pulpits in Toulouse in late August 1942, the Bishop wrote,

In the concentration camps of Noe and Recebedon in our diocese horrible things are happening against the Jews, who are human beings like we are. Every imaginable cruelty is permitted against them. There are rights of man given by God to the human race which should not be violated. Jewish children, women and men are treated like cattle.⁶³

Catholic and Protestant leaders made numerous other protests against the mistreatment of Jews, and the *New York Times* noted that "[s]ome of their public remarks [had] scarcely been veiled."⁶⁴

⁵⁹ *Id.*

⁶⁰ *Manhunting in France*, N.Y. TIMES, Aug. 29, 1942, at 14.

⁶¹ *French Aid Fleeing Jews*, N.Y. TIMES, Sept. 3, 1942, at 5.

⁶² *Id.*

⁶³ *Id.* (internal quotations omitted).

⁶⁴ *Church Leaders Critical*, N.Y. TIMES, Sept. 5, 1942, at 3.

[38] Efforts by the Church to save the Jews in France and elsewhere went beyond words. The *Times* reported in 1942 that “[m]any Catholic leaders in unoccupied France are sheltering children of Jews, and their defiance of orders to surrender them has brought about an open rift between the Vichy government and priests.”⁶⁵ In Belgium, a priest was shot for having hidden one hundred Jewish children.⁶⁶ In occupied France, the Catholic Bishops’ letters, which were read from church pulpits, and their protests urged Catholics to help persecuted Jews.

[39] The numerous protests by the Catholic hierarchy “against the treatment of Jews” in France created “a difficult situation for the Vichy government by September 1942.”⁶⁷

It is semi-officially reported from Vatican sources that Pope Pius, through the Nuncio in Vichy, has sent to Marshal Petain a personal message in which he intimated his approval of the initiative of the French Cardinals and Bishops on behalf of the Jews and foreigners being handed over to the Germans. It is understood the Pope asked the French Chief of State to intervene.⁶⁸

Later that month, Pius XII met for over an hour with Myron C. Taylor, President Roosevelt’s personal representative to the Vatican.⁶⁹ The *New York Times* expressed the general opinion that the Vatican was on the verge of doing something more directly to help the Jews in the various occupied countries.⁷⁰

⁶⁵ *Catholics Shelter Children*, N.Y. TIMES, Sept. 9, 1942, at 9.

⁶⁶ *Belgium Priest Reported Shot*, N.Y. TIMES, Jan. 10, 1943, § 1, at 9.

⁶⁷ *French Censorship Hides Rising Unrest: Uneasiness Linked to Protests on Treatment of Jews*, N.Y. TIMES, Sept. 10, 1942, at 9.

⁶⁸ *Id.*

⁶⁹ Daniel Brigham, *Pope Has Long Talk with Taylor; Move to Aid Jews in France Seen*, N.Y. TIMES, Sept. 20, 1942, § 1, at 1.

⁷⁰ *Id.*

[40] In early January 1943, the *New York Times* reported that Cardinal Suhard of Paris visited Rome “with a detailed report on the results of French collaboration with the Axis, particularly the trend toward complete elimination of Jews from France.”⁷¹ As the situation worsened, the Pope received various petitions, including those from rabbis, asking for his help. One petition came from Rabbi J. H. Herzog, the Chief Rabbi of Jerusalem, to which the Pope replied promising “to do all in his personal power to aid persecuted Jews in Europe.”⁷²

[41] To the Papacy, the Pope spoke with moral authority, thus, he had to speak of moral issues and speak out against others without descending into a discussion of politics. He condemned the Nazi and Fascist ideologies, and the policies and actions bred by such beliefs, but he remained above the political fray.

[42] Both Protestant and Catholic clergy in the Netherlands sent an open letter to Arthur Seyss-Inquart, the Reich Commissar.⁷³ The letter decried the regime’s treatment of Jews and other minorities.⁷⁴ The Catholic Church refused to be silenced. On February 21, 1943 the Catholic Bishops released a pastoral letter, read from all Catholic pulpits in the Netherlands, in which they wrote:

In all the injustices that are now being committed our sympathy goes out particularly to the youths who are being violently taken away from their parental homes. It goes out to the Catholic

⁷¹ *Cardinal Reported on Rome Trip*, N .Y. TIMES, Jan. 8, 1943, at 4. After the War, Pius XII removed a number of French bishops who had cooperated with the Germans and Vichy Governments. *See 2 French Bishops Quit*, N.Y. TIMES, Nov. 7, 1945, at 12.

⁷² *Pope Pledges Aid to Jews*, N.Y. TIMES, Feb. 7, 1943, § 1, at 29.

⁷³ *Churches Protest to Holland Rules: Protestants and Catholics Unite in Appeal to Seyss-Inquart Against Restrictions*, N.Y. TIMES, Mar. 14, 1943, § 1, at 10.

⁷⁴ *Id.*

believers of Jewish origin and to those persecuted for their belief in religious freedom.

Moreover, we are deeply moved [with shame] that in the execution of this persecution against our charges the collaboration of our own fellow-countrymen has been demanded

Conscience cannot allow collaboration in such things. If the refusal to collaborate implies sacrifices for the individual, then he must be strong and steadfast in the knowledge that he is doing his duty before God and man.

The church does not wish to take sides in the conflict between States and people attempting to solve immense problems of national collaboration, but only as long as they respect divine law. With the mandate of Christ as guardian of Christian principles, it must not fail to proclaim inviolate the word of God, which is to obey Him rather than man.⁷⁵

The National Socialist Mayor of Rotterdam responded to the pastoral letter by stating “when the terrorism of the church widens its scope and calls for sabotage, as it did in these letters . . . the time has come for the party to react in an appropriate manner.”⁷⁶

[43] Eight Catholic bishops sent a similar protest to Denmark’s Minister of Justice, Thune Jacobsen.⁷⁷ The bishops condemned the arbitrary arrest of Danes and the German anti-Semitic propaganda.⁷⁸ Protestant and Catholic bishops issued a joint pastoral letter condemning the deportation of four hundred Jewish children from the Netherlands to Eastern Europe and the German treatment of Jews.⁷⁹

⁷⁵ *Id.* (alteration in original) (internal quotations omitted).

⁷⁶ *Id.* (internal quotations omitted).

⁷⁷ George Axelsson, *Chutist Hide-Out in Norway Cited*, N.Y. TIMES, Apr. 1, 1943, at 10.

⁷⁸ *Id.*

⁷⁹ *Nazis Torment Dutch in Fear of Invasion*, N.Y. TIMES, Apr. 22, 1943, at 7.

[44] The Church protested the mass deportations and forced sterilization of couples in interfaith marriages, those between a Jew and a non-Jew, a policy implemented by German occupation authorities in the Netherlands.⁸⁰ The Bishops objected by writing, “After all that has befallen the Jewish citizens of our country there is now taking place something so monstrous that it is impossible for us to refrain from addressing you in the name of Our Lord.”⁸¹

[45] The *New York Times* published a report, “Reich Churches Resist Nazi Rule,”⁸² which stated that Catholic and Protestant Churches had been hard at work against the Nazi regime.⁸³ It refuted “charges made by some religious leaders in other countries that German churches followed a policy of resignation and inactivity in the face of Nazi tyranny The churches [had, in fact,] protested frequently [against] the persecution of Jews.”⁸⁴ Catholic bishops, the report continued, had “protested the persecution of both Poles and Jews by affirming the fundamental rights of all men.”⁸⁵

[46] Later in June, the *Times* reported a marked rise in the opposition to Roman Catholicism in particular, and Christianity in general by the Nazi party in the occupied territories.⁸⁶ For example, *Storm*, a Nazi publication, “attacked the Catholic clergy in the

⁸⁰ *Sterilization Hit by Dutch Churches*, N.Y. TIMES, June 11, 1943, at 4.

⁸¹ *Id.* (internal quotations omitted).

⁸² *Reich Churches Resist Nazi Rule, Cooperate with Outside Forces*, N.Y. TIMES, June 11, 1943, at 1.

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Catholics Target of Abuse by Nazis: Parties in Occupied Countries Show Increased Hostility*, N.Y. TIMES, June 19, 1943 at 2.

Netherlands as ‘the prime instigator’ of the general strike”⁸⁷ The strikers, according to *Storm*, “were ‘mostly sheep of the Roman Catholic Church, who incited [the] people until they stood opposite German firing squads.’”⁸⁸

[47] *Ragnarok*, a Norwegian Nazi publication, stated:

We Nazis reject Christianity because we reject Judaism, and have acknowledged that both are inextricable allies. As a consequence both are capable of doing anything against us.

We reject Christianity because we consider the Bible in its entirety a Jewish delusion, created in order to break the earthly will for life and the immortal belief of all Nordic peoples in their own part in things divine.⁸⁹

[48] There were also reports of “[a] fresh wave of opposition” against the French Catholic clergy because of their protests against the Vichy Government.⁹⁰ Broadcasting to occupied France, Vatican Radio reiterated its denunciation of Nazi racial laws.⁹¹ The Vatican asserted that “[h]e who makes a distinction between Jews and other men is unfaithful to God and is in conflict with God’s commands. As long as men make difference in the treatment of members of the human family, the peace of the world, order and justice will be at stake.”⁹² Paraphrasing Scripture, the Vatican further declared that “[t]here are neither Greeks nor Jews. There are only

⁸⁷ *Id.* The strike was held to “protest against the return of Netherland soldiers to the status of prisoners of war.” *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.* (internal quotations omitted).

⁹⁰ *Id.*

⁹¹ *Vatican Scores Nazi Laws: Warns French Bias Against Jews is Offense Against God*, N.Y. TIMES, June 27, 1943, § 1, at 16.

⁹² *Id.* (internal quotations omitted).

men facing their God and their Father, and those who make distinctions between them abandon God and enter into disorder.”⁹³

[49] By July, the Catholic hierarchy in Germany incurred the wrath of the Nazi regime again. After the Catholic Bishops in Nazi Germany signed a protest “against a Nazi party plan to extend the wearing of the Star of David to ‘mischlings,’ in Nazi terminology, the offspring of a Jewish father and an ‘Aryan’ mother or vice versa,” the three most outspoken of Germany’s Catholic bishops were placed on house arrest.⁹⁴ The Nazis also responded by seizing convents, Catholic hospitals, and other church property throughout Germany; Catholic labor organizations were disbanded, and religious images taken from schools.⁹⁵

[50] In August, during their annual meeting known as the Fulda Conference, the German Catholic Bishops reiterated their protests against the Nazi practices and teachings.⁹⁶ The *Times* reported that the Bishops’ pastoral letter “abounds in sly but fearless thrusts at the false god and Nazi tenets. The Bishops addressed themselves also to ‘those who saw fit to create a god after their own hearts, or one designed only for national or racial consumption.’”⁹⁷ The Bishops

⁹³ *Vatican Condemns Rifts: Broadcast Condemns Discrimination in Human Family*, N.Y. TIMES, June 28, 1943, at 8 (internal quotations omitted).

⁹⁴ *Nazis Said to Curb Catholic Prelates*, N.Y. TIMES, July 6, 1943, at 9 (the detained bishops were Michael Cardinal von Faulhaber Archbishop of Munich, Clemens Count von Galen, Bishop of Muenster, and Konrad Count von Preysling, Bishop of Berlin).

⁹⁵ *Id.*

⁹⁶ *German Catholics Assail Nazi Rulers*, N.Y. TIMES, Sept. 6, 1943, at 7.

⁹⁷ *Id.*

concluded their letter by thanking Pope Pius XII for leading the way in seeking peace and preserving human dignity.⁹⁸

[51] In early December 1943, the Vatican protested the “German decision to intern all Jews in Italy, and confiscate their belongings, and warned that it would affect numerous Catholics of Jewish descent.”⁹⁹

[52] While the Church continued its work to save Jews, churches throughout Rome were searched for Jews and those who helped them. In February 1944, the Roman police forced entry into St. Paul’s Basilica, arresting sixty-four persons including refugees who had been given sanctuary by the church.¹⁰⁰ Following the Pope’s objection to the searches, Castel Gandolfo and other Vatican property were bombed.¹⁰¹

[53] By spring 1944, Nazi attacks against Jewish communities in Hungary began in earnest. Justinian Cardinal Seredi, Catholic Primate of Hungary, protested against the forced movement of three hundred thousand Jews to “collection camps” in Hungary.¹⁰² This was one of many protests by the Cardinal. According to the *New York Times*, the Cardinal’s first protest was in 1934 when he “attacked totalitarian principles and ideologies. In a pastoral letter of that year he wrote, ‘It is not possible for a Catholic priest to approve Nazi principles, and I decidedly

⁹⁸ *Id.*

⁹⁹ *Vatican Scores Germans: Denounces Decision to Intern and Strip All Jews in Italy*, N.Y. TIMES, Dec. 5, 1943, § 1, at 3.

¹⁰⁰ *Vatican Protests Raid on Church*, N.Y. TIMES, Feb. 8, 1944, at 7; see *Vatican Repeats Pledge of Haven*, N.Y. TIMES, Feb. 9, 1944, at 7; see also *Fascist Slay Six Seized in Church*, N.Y. TIMES, Feb. 11, 1944, at 3 [hereinafter *Fascist Slay*] (reporting that eighty-two persons “including twenty-eight Jews” were seized during the raid).

¹⁰¹ *Fascist Slay*, *supra* note 100, at 3.

¹⁰² *Cardinal Appeals for Jews*, N.Y. TIMES, Apr. 28, 1944, at 5.

prohibit participation in this movement or even a benevolent attitude of any of my priests toward it.”¹⁰³ Repeating the principles established by Popes Pius XI and Pius XII, Seredi issued his first attack against Nazi inspired racial discrimination in 1940.¹⁰⁴ In 1942, he again protested, stating that “Christ’s teachings do not acknowledge differences between men and do not know prerogatives which would entitle a man or a nation to oppress another man or nation on racial or national basis.”¹⁰⁵ In another protest he spoke of

[s]lavery and oppression [as] the antithesis of freedom. The Christian Church declared war on slavery and oppression because they are in contradiction to Christ’s teachings. The Church is fighting not only against the physical but also against the spiritual oppression of humanity. Even if we see today that international law has received a new interpretation and innocent people have to suffer under physical and spiritual oppression, the church is fighting with all its might against the fashionable currents and for the protection of human rights

The endeavors which we witness today and which caused so much sufferings also to the Christian Church, will provoke such reaction, such vengeance, that also innocent people will fall its victims.¹⁰⁶

[54] In 1944, Foreign Secretary Anthony Eden commented that “the principal hope of terminating this tragic state of affairs must remain the speedy victory of the Allied nations.”¹⁰⁷

Likewise, Ann O’Hare McCormick of the *New York Times* observed that despite the horrors of

¹⁰³ *Cardinal Seredi of Hungary Dies*, N.Y. TIMES, Apr. 14, 1945, at 15.

¹⁰⁴ *Id.*

¹⁰⁵ *Id.* (internal quotations omitted).

¹⁰⁶ *Personal Liberty Upheld in Hungary*, N.Y. TIMES, Jan. 23, 1943, at 3 (internal quotations omitted).

¹⁰⁷ *Hungary Deports Jews, Eden says*, N.Y. TIMES, July 6, 1944, at 6 (internal quotations omitted).

the War, there was hope that it would end.¹⁰⁸ There was hope notwithstanding the tragic persecution of the Jews in Hungary.¹⁰⁹ McCormick commented on the situation in Hungary and Italy by noting that

as long as they exercised any authority in their own house, the Hungarians tried to protect the Jews. The Italians, according to the testimony of the chief rabbi and every hunted Jew in Rome, did not carry out the Fascist racial laws, and endangered their own lives to hide Jews when the Germans took over. The Pope does not think it is hopeless. The Vatican and the religious institutions under its authority were sanctuaries not only for Italian but for refugee Jews in Italy, of whom there were many, and Pius XII now addresses an urgent appeal to Admiral Horthy and instructs Cardinal Seredi of Budapest to intervene in behalf of the Jews of Hungary.

It is not hopeless because we can still count on forces of Christianity and humanity inside Europe to resist Nazi fury.¹¹⁰

The resistance, along with the Russian advance into Germany, gave hope that the atrocities of the Nazi regime would soon come to an end.¹¹¹ Rome was liberated just one week after McCormick's comments.

[55] According to the *Times*, the Pope, who refused to receive German high officers and rarely received German soldiers during the War, received more than 150,000 Allied soldiers.¹¹²

¹⁰⁸ Anne O'Hare McCormick, *Europe: Victims of the Last Fury of the Nazis*, N.Y. TIMES, July 15, 1944, at 12.

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² *Pontiff Has Received 150,000 of the Allies*, N.Y. TIMES, July 27, 1944, at 3.

The chief rabbi of Rome, Israele Anton Zolli, formally expressed “the gratitude of Roman Jews for all the moral and material aid the Vatican gave them during the Nazi occupation.”¹¹³

[56] McCormick observed that “[p]residing over a world-wide church in a world-wide war that is also a civil and religious war, Pius XII comes out of the ordeal a stronger figure, as far as liberated Italy is concerned, than he was before.”¹¹⁴ McCormick also interviewed “[a]n old liberal” concerning the role of the Italian Christian Democratic party in the coalition, who stated:

The last thing that I expected in the crisis was the resurgence of the Catholic party in greater force than the Communists and Socialists. An equally surprising phenomenon is the rising prestige of the Pope. Mussolini has gone, the King has gone, and nobody mourns. The Pope remains the winner of Italy’s one victory—the saving of Rome.¹¹⁵

[57] While McCormick reported that the Pope was credited with having saved Rome, there were other reasons for his popularity. For instance,

During the nine months between the armistice and the entry into Rome, the Vatican was a refuge for thousands of fugitives from the Nazi-Fascist reign of terror. Jews received first priority – Italian Jews and Jews who escaped here from Germany and other occupied countries – but all the hunted found sanctuary in the Vatican and its hundreds of convents and monasteries in the Rome region.

What the Pope did was to create an attitude in favor of the persecuted and hunted that the city was quick to adopt, so that hiding someone “on the run” became the thing to do. This secret sharing of danger cleared away fascism more effectively than an official purge. The Vatican is still sheltering refugees. Almost

¹¹³ *Id.*

¹¹⁴ Anne O’Hare McCormick, *Abroad: Position of Pope in Italy Has Been Enhanced by War*, N.Y. TIMES, Aug. 21, 1944, at 14 [hereinafter *Position of Pope in Italy*].

¹¹⁵ *Id.* (internal quotations omitted).

100,000 homeless persons from the war zone and devastated areas are fed there every day.¹¹⁶

[58] Upon reading Hitler's writings or listening to his speeches, it is clear that the Jews were his immediate target for persecution and extermination—they were charged with being the cause of every evil in the Reich. It is also clear that the Roman Catholic Church was the next target, and Hitler waged a systematic and tireless war against the Church throughout the War years.

III. WAR ON THE CHURCH: THE NAZI REACTION TO THE CHURCH'S PROTESTS AGAINST THE NAZI AND FASCIST GOVERNMENTS

[59] The *New York Times* reported that the billeting of soldiers in convents was one of many Nazi measures used against the Roman Catholic Church in German-held territories.¹¹⁷ Another of these measures occurred following the publication of the German Catholic Bishops' pastoral letter in 1939, "which was one of the sharpest attacks ever made by Catholics against Nazis," when Nazis seized the materials used in the production and distribution of the pastoral letter.¹¹⁸ The Reich even published a hymnal under the auspices of the "Institute for the Examination of Jewish Influence on the Church Life of Germany."¹¹⁹ Songs touting Nazi themes of race and homeland, such as a baptismal hymn entitled, *Tender Child of German Blood*,

¹¹⁶ *Id.*

¹¹⁷ *Vienna Nazis Billeting Soldiers in Convents*, N.Y. TIMES, Jan. 21, 1939, at 4. One of the convents, St. Francis de Sales in Vienna, was chosen to house one hundred and fifty soldiers for two years. *Id.*

¹¹⁸ *Nazis Seize Materials Used by Fulda Bishops*, N.Y. TIMES, Jan. 14, 1939, at 5.

¹¹⁹ Daniel T. Brigham, *German Catholics Fight Nazi Tenets*, N.Y. TIMES, May 10, 1942, at 14 (internal quotations omitted).

replaced many traditional hymns.¹²⁰ There were also reports that Hitler would establish his own national church.¹²¹

[60] The use of convents and other tactics were part of the organized “war on Christianity,” which, according to a letter written in June 1941 from the Catholic Bishops to Pope Pius XII, was waged throughout the Reich territories by the Nazi regime.¹²² During the Bishops’ annual meeting in Fulda, at the tomb of St. Boniface, they recounted to the Pontiff the severity and depth of the systematic war against the Church by the Third Reich.¹²³ They informed the Pope that Catholic organizations were disbanded, influential men in German society were pressured to deny their faith, holy days canceled in favor of work days, priests and religious sisters arrested and sent to concentration camps, and schools, Catholic institutions, printing houses, and monasteries were closed.¹²⁴ The Bishops wrote, “In this and in other ways freedom of conscience is repressed to a degree that is simply intolerable for man made to the image of God and for Christians.”¹²⁵

¹²⁰ *Id.* (internal quotations omitted).

¹²¹ *See id.*

¹²² *Reich Bishops’ Letter Told Pius of War on Nazis*, N.Y. Times, Oct. 20, 1945, at 4 [hereinafter *Told Pius of War on Nazis*].

¹²³ *Id.*

¹²⁴ *Id.* Michael Cardinal von Faulhaber issued a similar report to the Holy See in 1942. He reported that bishops, priests, and religious persons were arrested, church property was confiscated, Catholic printing houses were closed, pressure was placed upon Catholic workers and students to absent themselves from Mass, and the Church was characterized as a “supernational organization” which Germans loyal to the Reich and to the new world order should shun. Daniel T. Brigham, *German Cardinal Indicts Nazi “War on Christianity”*, N.Y. TIMES, May 9, 1942, at 1 (internal quotations omitted).

¹²⁵ *Told Pius of War on Nazis*, *supra* note 122, at 4.

[61] The Pope responded in September 1941, lamenting the attempt to destroy the Church in Germany.¹²⁶ He put the sufferings of the Church in the context of grace,

In congratulation, allow us to address you and our beloved children who at your side are fighting the battle of our Lord, in the words of St. Cyprian: “Your present confession of faith . . . is more illustrious and honored because of your greater strength in suffering. As the combat waxed in intensity, the glory of the combatants grew If the battle calls you, if the day of your struggle has come, fight bravely, fight constantly, knowing that you are battling beneath the gaze of our Lord who is ever present, that you are by your confession of His name attaining to His glory who not merely watches His warring servants but Himself fights in us, Himself joins battle, Himself crowns and is crowned by the decisive contest of our trial.”¹²⁷

Christ had predicted that the world would seek to destroy the Church. This was but the most recent in a long history of that prophesied struggle.¹²⁸ Likewise, the Pope and the Bishops viewed World War II as a fundamentally religious war, fought for the very soul of humanity.

[62] Nothing brought home the reality of Hitler’s systematic war against the Catholic Church in particular, and against Christianity in general, more than a 1942 pastoral letter,¹²⁹ which was signed by all the Roman Catholic Bishops in the Reich territories and read from every Catholic pulpit throughout the Third Reich.¹³⁰ The Bishops asserted, according to Secretary of State Cordell Hull, “that Hitler would blot out from the entire earth every vestige of Christianity,

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Hull Quotes Bishops in Scoring Hitlerism*, N.Y. TIMES, June 9, 1942, at 12 [hereinafter *Hull Quotes*].

¹³⁰ *Nazi Acts Decried by Reich Bishops*, *supra* note 54, § 1, at 12.

if he should find it advisable in his military undertakings.”¹³¹ The Bishops condemned Hitler’s official policy of murdering the innocent and those judged “unproductive citizens.”¹³² As noted by the *New York Times*, Germany’s population was ninety-five percent Christian,

this, then, means that the Nazi dictatorship is waging war on its own people. Indeed the Bishops specifically call it a war and publicly protest its continuance. Step by step they traced the [Reich’s] broken promises . . . to protect the church, the restriction of worship and religious education, the expropriation of church property, the expulsion and internment of priests for no other crime than the practice of their faith. But the Bishops are not content to rest their case there. They go on to show with irrefutable logic that this assault on the church is only part of a broader attack on all human rights, human freedom and the human spirit Nobody’s life is safe, they assert, if the state assumes the power to kill at will. Above all, they repel the sickening charge that refusal to submit to this brutal creed is lack of patriotism.¹³³

The *Times* commented that “[t]he measure of Nazi madness is to have precipitated a civil war in the midst of an effort to conquer the world.”¹³⁴

[63] Anne O’Hare McCormick summarized the systematic protests against the Nazis by the Churches of Europe in her weekly column, *Abroad*.¹³⁵ She wrote:

When the history of this new Reign of Terror is written, it will appear that the strongest centers of opposition to the claims of the God-State were not universities, trades unions, political parties, courts or organized business. In Germany and the occupied countries the institution that stands up most stoutly against the pretensions of the Nazi New Order is the church.

¹³¹ *Hull Quotes*, *supra* note 129, at 12.

¹³² *Nazi Acts Decried by Reich Bishops*, *supra* note 54, § 1, at 12 (internal quotations omitted).

¹³³ *German Conscience*, *supra* note 56, at 14.

¹³⁴ *Id.*

¹³⁵ Anne O’Hare McCormick, *Abroad: Germany’s Internal War Centers in the Churches*, N.Y. TIMES, June 10, 1942, at 20.

The Protestant pastors of Norway dared to go on strike rather than accept orders from Quisling [Nazi head of the government]. The [Catholic] Primates in Holland and Belgium have defied the Nazi authorities as boldly as Cardinal Mercier did in the last war. Resistance to the collaborationists in France has been nourished by the parish priests, whose influence among their people has never been so strong, according to all reports, as it is today

Judging from the open resistance offered by the churches in Hitler's Europe, one might infer that of all human freedoms[,] freedom of conscience is the most cherished

Year after year the [Catholic Bishops'] Fulda Conference has issued statements denouncing the systematic attempts of the regime to destroy the last vestiges of religious liberty in the Third Reich. But the letter read in the churches on March 22, this year, goes farther than any previous pastoral. The Bishops have taken the unusual step of circulating among the people the official protest they have addressed to the Government. Thus the document is not an underground report or a picture drawn from isolated incidents but a detailed disclosure of the actual situation of the church in Germany

The indictment confirms reports that the Catholic Church has succeeded the Jews as the scapegoat of the Nazis. This is a logical sequence. A regime that starts by oppressing one group must find another when the first is exhausted. A nation acquiescing in the persecution of one minority cannot expect any minority to escape the same fate, and since the majority is only the sum of minorities, eventually the policy of proscription will extend to the whole population

The Nazis, say the Bishops, "wish to destroy Christianity in Germany during the war before the soldiers . . . return home"

All we know for certain is that religion plays a vital part in this war.¹³⁶

[64] Throughout June 1942, the *New York Times* published a series of articles that offered brief biographies of Catholic and Protestant clergy who had stood up to Hitler within the

¹³⁶ *Id.*

Reich.¹³⁷ The *Times* observed that church leaders “are virtually the only Germans still speaking up against the Nazi regime.”¹³⁸ For example, Bishop von Galen of Muenster repeatedly condemned Heinrich Himmler and the Gestapo as “tyrants and murderers.”¹³⁹

[65] During the summer of 1941, Bishop von Galen preached three sermons denouncing Nazi racial and anti-religious principles.¹⁴⁰ The immediate outcome of the Bishop’s first sermon was that the Nazi government reportedly dissolved “all Roman Catholic religious orders in the Province of Westphalia[,] . . . and a number of prominent Roman Catholics [were] imprisoned.”¹⁴¹ The next week, “the Bishop mounted his pulpit to decry the injustices within the country that ‘cried aloud to heaven for redress.’”¹⁴² The *New York Times* reported that the

¹³⁷ Henry Smith Leiper, *Churchmen Who Defy Hitler I: Bishop Von Galen of Germany*, N.Y. TIMES, June 8, 1942, at 6 [hereinafter *Churchmen Who Defy Hitler I*] (Bishop Clemens August von Galen, Bishop of Muenster, was one of the three Catholics noted in the series); Henry Smith Leiper, *Churchmen Who Defy Hitler II: Bishop Berggrav of Norway*, N.Y. TIMES, June 9, 1942, at 12 (Bishop Eivand Berggrav, Lutheran Bishop of Oslow, was one of two Protestants mentioned in the series); Henry Smith Leiper, *Churchmen Who Defy Hitler III: Archbishop de Jong of Holland*, N.Y. TIMES, June 10, 1942, at 10 [hereinafter *Churchmen Who Defy Hitler III*] (Archbishop J. de Jong, Archbishop of Utrecht, was the second Catholic noted in the series); Henry Smith Leiper, *Churchmen Who Defy Hitler IV: Patriarch Gavrillo of Yugoslavia*, N.Y. TIMES, June 11, 1942, at 14 (a Greek Orthodox prelate, Patriarch Gavrillo of the Orthodox Church of Yugoslavia, was also noted in the series); Henry Smith Leiper, *Churchmen Who Defy Hitler V: Cardinal van Roey of Belgium*, N.Y. TIMES, June 12, 1942, at 10 [hereinafter *Churchmen Who Defy Hitler V*] (Cardinal van Roey, Archbishop of Malines, was the third Catholic noted in the series); Henry Smith Leiper, *Churchmen Who Defy Hitler VI: Karl Barth of Switzerland*, N.Y. TIMES, June 13, 1942, at 7 (Professor Karl Barth was the second Protestant noted in the series).

¹³⁸ *Churchmen Who Defy Hitler I*, *supra* note 137, at 6.

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.*

Bishop “[i]n outspoken terms . . . has condemned unauthorized killings of invalids and the insane, and Nazi racial doctrines.”¹⁴³

[66] Like von Galen, Archbishop de Jong condemned Nazi policies.¹⁴⁴ He and the other Catholic bishops in the Netherlands forbade Catholics from joining any Nazi organization without the explicit denial of Nazi ideology under pain of being refused the sacraments.¹⁴⁵ On August 3, 1940, the Bishops secretly prepared a pastoral letter, which was sent to all parishes and read in every Catholic pulpit, in which they issued a fresh protest: “We raise our voices in protest against the injustice inflicted upon tens of thousands – to force them to accept a conception of life which is contrary to their religious convictions.”¹⁴⁶

[67] Joseph Ernst Cardinal van Roey, Archbishop of Malines in Belgium, voiced continued protests as well. The *New York Times* observed that the Cardinal “insist[ed] on heeding the voice of the Pope rather than the precepts of National Socialism.”¹⁴⁷ He refused to give the sacraments to all members of the Belgian Fifth Column, a Nazi military group, and instructed his priests to refuse communion to any pro-German in uniform; men in uniform were even forbidden from entering Catholic churches in Belgium.¹⁴⁸ The Cardinal and his priests repeatedly recounted Nazi wrongs from their pulpits.¹⁴⁹ After the reading of the Cardinal’s

¹⁴³ *Id.*

¹⁴⁴ *Churchmen Who Defy Hitler III*, *supra* note 137, at 10.

¹⁴⁵ *Id.*

¹⁴⁶ *Id.* (internal quotations omitted).

¹⁴⁷ *Churchmen Who Defy Hitler V*, *supra* note 137, at 10.

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

pastoral letter condemning Nazi policies, the government closed all Catholic churches throughout Belgium for three days, newspapers attacked the Church, and the Cardinal's residence was smeared with abusive graffiti.¹⁵⁰ "It is true," the Cardinal wrote in his pastoral letter, "that the Catholic Church adapts itself to all governments that safeguard her liberty of conscience, but as for adapting herself to governments that oppress the rights of conscience and persecute the Catholic Church, the answer must be – no! Never!"¹⁵¹

[68] In May, 1943, the Nazi-controlled Paris radio blamed the Catholic Church for having "unleashed" the War.¹⁵² As reported in the *Times*, the Vatican responded by "[r]ecalling the Nazi charges that the Catholic Church in Germany had invited oppression by opposing Adolf Hitler's theories of 'racialism.'"¹⁵³ In September, the Nazi-controlled Paris newspaper, *Aujourd'hui*, claimed that "Pope Pius XII was responsible for the hostile attitude of the French clergy toward German authorities and that his last speech had a particularly disquieting effect. This is the second attack against the Pope by the German-controlled French press and radio in recent months."¹⁵⁴

¹⁵⁰ *Id.*

¹⁵¹ *Id.* (internal quotations omitted).

¹⁵² *Nazi Accuses Vatican in Unleashing of War*, N.Y. TIMES, May 25, 1943, at 6 [hereinafter *Nazi Accuses Vatican*].

¹⁵³ *Nazi War Charges Denied by Vatican*, N.Y. TIMES, May 28, 1943, at 4 [hereinafter *Nazi War Charges*].

¹⁵⁴ *Nazi Press Blames Pope for Hostility of Priests*, N.Y. TIMES, Oct. 2, 1943, at 3 (internal quotations omitted).

[69] The German Bishops repeated their protests in their annual pastoral letter dated August 19, 1943.¹⁵⁵ They expressed grave regret that even “in this dangerous and costly period of our fatherland” the battle against the Church continues within the Reich.¹⁵⁶

[70] The persecution of the Church by the Nazis resulted in the incarceration of thousands of Catholic priests, religious sisters, and brothers. The Catholic International Press Agency of Freiberge, Switzerland, issued a report in 1943 which claimed that Protestant and Catholic clergy were “systematically being starved to death” in the death camp at Dachau.¹⁵⁷ It further claimed that “at least 1,500 Polish priests interned in Dachau had died of starvation,” German clergy met the same fate, and 3,000 Catholic priests were confined in the camp.¹⁵⁸ A few months later, the *Times* reported that “1200 German priests and religious persons have recently been interned by the Nazis in Bavarian concentration camps.”¹⁵⁹ “The arrests are linked,” the *Times* reported, “with strong anti-Nazi and anti-war movements in the preponderantly Roman Catholic section of Germany, in which Catholic students as well as priests are said to be active.”¹⁶⁰

[71] By October 1943, the *New York Times* reported that the Nazis had “tortured to death” a Catholic Bishop of the diocese of Plock and an Archdeacon of Gostynin, both were over 80

¹⁵⁵ *Reich Bishops Regret Nazi Acts*, N.Y. TIMES, Sept. 5, 1943, § 1, at 7.

¹⁵⁶ *Id.*

¹⁵⁷ *Dachau – Held Priests Starved, Report Says: 1,500 of Polish Clergy Declared to Have Dies in Nazi Camp*, N.Y. TIMES, Apr. 26, 1943, at 6 [hereinafter *Priests Starved*]; see Niemoeller *Spirit Unbroken at Dachau: Swiss Says Nazi Concentration Camp is Worse than Before*, N.Y. TIMES, May 22, 1943, at 2.

¹⁵⁸ *Priests Starved*, *supra* note 157, at 6.

¹⁵⁹ *Nazis Hold 1,200 Catholics for Bavarian Peace Drive*, N.Y. TIMES, Aug. 13, 1943, at 4.

¹⁶⁰ *Id.*

years of age.¹⁶¹ “The German slaughter of Catholic priests is raging through all Poland The Nazi concentration camp at Inowroclaw is filled with priests awaiting execution In West Poland alone more than 1,600 priests have already lost their lives.”¹⁶²

[72] In February 1944, the *New York Times* provided a partial list of Catholic Church property confiscated by the Reich.¹⁶³ By May 1943, the British Broadcasting Corporation reported that Nazis had confiscated over “3,400 Catholic monasteries and clerical institutions in Germany” and “16,495 Catholic priests and [seminarians] were [forcibly] inducted into the German Army.”¹⁶⁴ Of those who were inducted into service, “1,597 were killed at the front, 593 were listed as missing and about 100 were so seriously wounded they [were unable to] resume their [priestly] tasks.”¹⁶⁵ The arrests of priests continued throughout the year, especially in Bavaria and in the more industrialized areas of Germany.¹⁶⁶ In November, the *New York Times* reported that the Reich had seized another 400 priests in Germany “since the beginning of October.”¹⁶⁷

[73] As the Reich unraveled by the spring of 1945, the extent of the Reich’s war on the Church became more evident. In May, a photograph from the beer cellars of the Burger Brau

¹⁶¹ *Bishop, Archdeacon Slain: Polish Agency Accuses Nazis of Torturing Them to Death*, N.Y. TIMES, Oct. 26, 1943, at 4.

¹⁶² *Id.* (internal quotations omitted).

¹⁶³ *Nazi War Demands on Catholics Listed*, N.Y. TIMES, Feb. 29, 1944, at 9.

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ *400 Priests Seized in Reich, Swiss Say*, N.Y. TIMES, Nov. 19, 1944, at 24.

¹⁶⁷ *Id.*

Haus in Munich, used by the Brown Shirts, showed Nazi paraphernalia, including “statues of Jews hanging from gallows, a saluting Nazi and desecrated Catholic crosses with swastikas hanging from them.”¹⁶⁸

[74] In June 1945, the Pope addressed the Sacred College of Cardinals.¹⁶⁹ He intended to set the record straight concerning the conduct of the Church in Germany during the War, Hitler’s attempt to destroy the Church, and to warn against Soviet aggression.¹⁷⁰ Despite having entered into diplomatic relations with the Vatican, which afforded the Church some temporary juridical protection from the government, Hitler’s government had inflicted severe injury upon the Church.¹⁷¹ The Pope stated,

The struggle against the church did, in fact, become ever more bitter: there was the dissolution of Catholic organizations; the gradual suppression of the flourishing Catholic schools, both public and private; the enforced weaning of youth from family and church; the pressure brought to bear on the conscience of citizens and especially of civil servants; the systematic defamation, by means of a clever, closely organized propaganda, of the church[,] the clergy, the faithful, the church’s institutions, teaching and history; the closing, dissolution and confiscation of religious houses and other ecclesiastical institutions; the complete suppression of the Catholic press and publishing houses.¹⁷²

¹⁶⁸ *Inside the Munich Beer Cellars That Spawned Adolf Hitler and His Nazi Party*, N.Y. TIMES, May 7, 1945, at 3.

¹⁶⁹ Virginia Lee Warren, *Pope Sees Danger of A New Tyranny in Europe’s Chaos: Declares the Small States are Entitled to Refuse Regimes Rejected by Their People*, N.Y. TIMES, June 3, 1945, § 1, at 1.

¹⁷⁰ *See id.*

¹⁷¹ *Text of Pope Pius XII’s Address to the Sacred College of Cardinals*, N.Y. TIMES, June 3, 1945, § 1, at 22 [hereinafter *Text of Pope Pius XII’s Address*].

¹⁷² *Id.*

[75] There was also the arrest, deportation, and murder of thousands of priests and religious persons in the camps.¹⁷³ Reports emerged concerning the bombing of the Vatican by the Nazis on November 5, 1943.¹⁷⁴ In September 1945, documents were uncovered in Berlin revealing what the *New York Times* called “A secret struggle between the German Gestapo and the Catholic hierarchy, which lasted from the rise of [N]azism to its fall.”¹⁷⁵ The *Times* reported that Gestapo agents stole and bribed “to get access to messages from the Holy See to [Catholic bishops] in Germany and western Europe” during the War years.¹⁷⁶ “[T]he churchmen [were seen] as enemies of Hitler’s New Order.”¹⁷⁷ This late revelation made sense of the earlier attempts by the Nazi regime, and later by the Soviets, to vilify the Pope and the Catholic hierarchy.

IV. POPE PIUS XII AS TRAITOR TO HUMANITY: ORIGINS OF THE POPE’S ALLEGED “SILENCE” AND PRO-NAZI SENTIMENTS

[76] Since the Pope and the Church had worked to save the Jews during the War, where did the charges claiming the contrary arise? Reports and editorials from the *New York Times* offer clues, clues that existed even before the war in Europe came to an end.

[77] During his Christmas address in 1942, the Pope reaffirmed the Church’s teaching on the dignity of the human person and its denunciation of Marxist socialism, while calling on the

¹⁷³ *Id.*

¹⁷⁴ *Tittman Describes Bombing of Vatican*, N.Y. TIMES, July 2, 1945, at 5.

¹⁷⁵ *Gestapo Data Reveal Secret War on Pope*, N.Y. TIMES, Sept. 26, 1945, at 1.

¹⁷⁶ *Id.*

¹⁷⁷ *Id.* (internal quotations omitted).

world to reestablish the international rule of law.¹⁷⁸ The *New York Times* reported that “[h]e also castigated the authoritarian form of government” for its denigration of the human person, and “he called upon all those who recognized Christ to join the crusade for a new social order based on the Christian precept that to serve is better than to dominate.”¹⁷⁹ The Pope said,

He who would have the star of peace shine out and stand guard over society should cooperate for his part in giving back to the human person the dignity given to it by God from the beginning; he should oppose the excessive herding of men; as if they were a mass without a soul; their economic, social, political, intellectual and moral inconsistency; their dearth of solid principles and strong convictions, their surfeit of instinctive sensible excitement and their fickleness.

He should favor, by every lawful means, in every sphere of life, social institutions in which a full personal responsibility is assured and guaranteed both in the earthly and the eternal order of things.¹⁸⁰

[78] The error of today’s life, he said, was to “believe that civil life was based on the principle of gain [T]he Pope reiterated the Church’s stand against Marxist Socialism,” and concluded by castigating “a large part of humanity, including even some Christians who collectively bore the responsibility for the present universality of war.”¹⁸¹ He continued,

Did the peoples of the world wish to remain inert before the development of these disastrous events or should not the best of them unite against this ruin of the social order?

¹⁷⁸ *Pope Assails Peril of “Godless State”*, N.Y. TIMES, Dec. 25, 1942, at 1 [hereinafter *Pope Assails Peril*].

¹⁷⁹ *Id.*

¹⁸⁰ *Text of Pope Pius XII’s Christmas Message Broadcast from Vatican to the World*, N.Y. TIMES, Dec. 25, 1942, at 10.

¹⁸¹ *Pope Assails Peril*, *supra* note 178, at 1.

A new and higher order must soon be born It was demanded by the sacrifices of those who had lost their lives in this war, by the mothers, the widows and the orphans, by the countless refugees in flight, by the thousands of men who through no fault of their own but for reasons of nationality or of race had been doomed to death or decay.¹⁸²

[79] The *New York Times* was quick to applaud the Pope. “No Christmas sermon reaches a larger congregation than the message Pope Pius XII addresses to a war-torn world at this season. This Christmas,” the *New York Times* wrote, “more than ever he is a lonely voice crying out of the silence of a continent.”¹⁸³ The *New York Times* understood the Pope’s message, whom and what he condemned, even if the proper names were not pronounced. The *Times* wrote,

But just because the Pope speaks to and in some sense for all the peoples at war, the clear stand he takes on the fundamental issues of the conflict has greater weight and authority. When a leader bound impartially to nations on both sides condemns as heresy the new form of national state which subordinates everything to itself; when he declares that whoever wants peace must protect against “arbitrary attacks” the “juridical safety of individuals[;”] when he assails violent occupation of territory, the exile and persecution of human beings for no reason other than race or political opinion; when he says that people must fight for a just and decent peace, a “total peace” – the “impartial” judgment is like a verdict in a high court of justice.

[T]hose who aim at building a new world must fight for free choice of government and religious order. They must refuse that the state should make of individuals a herd of whom the state disposes as if they were lifeless things.¹⁸⁴

[80] But while there were those who recognized the Pope’s contributions, both Hitler and Stalin blamed the Pope and the Catholic Church for the War and for the suffering of millions,

¹⁸² *Id.*

¹⁸³ *The Pope’s Verdict*, N.Y. TIMES, Dec. 25, 1942, at 16.

¹⁸⁴ *Id.*

including Jews and Catholics. Both Nazis and Communists repeated the accusations during the remaining years of the War in an attempt to undermine loyalty to Pius XII and to the Roman Catholic Church. The Nazi and Communist accusations are the origin of the numerous unfounded accusations, including those pertaining to the supposed silence of Pius XII, which are repeated even today.

[81] On January 30, 1943, Hitler broadcast a speech in which he tried to revive the myth that Nazi Germany was the last “barrier against the conquest of Europe by Bolshevism.”¹⁸⁵ In the April edition of the Fascist periodical *Regime Fascista*, Roberto Farinacci accused Vatican radio of “inciting the people of Poland to make common cause with the Russian Army.”¹⁸⁶ In May, the Nazi controlled radio reported that the Catholic Church had “a crushing responsibility in unleashing the present war.”¹⁸⁷ The Nazis charged that the Catholic Church had invited oppression in the Reich by opposing Hitler’s racialist theories.¹⁸⁸ Clearly, Pius XII had not been silent.

[82] The February 1, 1944 edition of the Soviet government newspaper, *Izvestia*, claimed that “Vatican foreign policy had disillusioned Catholics throughout the world and ‘earned the hatred and contempt of the Italian masses for supporting fascism.’”¹⁸⁹ The paper charged that

¹⁸⁵ Harold Callender, *Washington Sees Hitler Revive Old Bogy that Reich is Only Barrier to Bolshevism*, N.Y. TIMES, Jan. 31, 1943, §1, at 37.

¹⁸⁶ *Fascist Accuses Vatican: Farinacci Says Radio Urged Poles to Help Russians*, N.Y. TIMES, Apr. 26, 1943, at 9 (internal quotations omitted).

¹⁸⁷ *Nazi Accuses Vatican*, *supra* note 152, at 6.

¹⁸⁸ *Nazi War Charges*, *supra* note 153, at 4.

¹⁸⁹ *Izvestia Calls Pope Pro-Fascist; Says Catholics Are Disillusioned*, N.Y. TIMES, Feb. 2, 1944, at 1.

the “Vatican had pledged its support to Italian fascism following the conclusion of the Lateran Treaty in February, 1929, ‘but the Vatican’s support for fascism wasn’t limited solely to Italy. It approved many acts of aggression by fascism although the true meaning of these aggressions was no secret.’”¹⁹⁰

[83] The Vatican, according to the *Izvestia*, supported Italy’s aggression into Abyssinia, and had played a “disgraceful role” in Hitler’s and Mussolini’s intervention in the Spanish Civil War.¹⁹¹ Furthermore, the Church had supported Franco’s Spain, which stood as an “image of the clerical States of post-war Europe,” an image that the Vatican wanted to emerge.¹⁹² *Izvestia* charged that the Vatican’s “silence” when France was attacked in 1940 and its swift support of the Vichy government were typical of Vatican policy.¹⁹³ The Vatican, *Izvestia* proclaimed, despite the Pope’s claims to neutrality, had worked to support the Nazi regime and for “the destruction of other States.”¹⁹⁴ This was the first report in the *New York Times* in which the Pope and the Church were attacked as cooperators of Hitler and falsely condemned for the Pope’s supposed silence. It is significant that the *Times* reported the *Izvestia* charges, gave them no credence, and later expressed consternation that anyone could believe the charges as anything other than Communist propaganda against the Church.¹⁹⁵

¹⁹⁰ *Id.*

¹⁹¹ *Id.* (internal quotations omitted).

¹⁹² *Id.* (internal quotations omitted).

¹⁹³ *Id.*

¹⁹⁴ *Id.*

¹⁹⁵ *Izvestia and the Vatican*, N.Y. TIMES, Feb. 4, 1944, at 14.

[84] Monsignor Fulton J. Sheen, an American, swiftly rebutted these charges on the same day the *Izvestia* article appeared.¹⁹⁶ He stated that the report was

an attempt to confuse the political atmosphere in Europe in preparation for a separate peace by Moscow with the German Army after the expected overthrow of Hitler.

Mgr. Sheen predicted an alliance between Communist Russia and the Nazis, minus Hitler, for the bolshevization of Europe and declared that the *Izvestia* attack was designed to help destroy religion as the one great obstacle to the achievement of this objective.¹⁹⁷

He stated that “[t]he Vatican within the last six months has been called Communist by the Nazis, Nazi by the Communists and anti-Fascists by the Fascists. And they all mean the same thing, namely, that the Vatican is opposed to every anti-religious ideology.”¹⁹⁸ Sheen observed that Russia’s plans were to control Europe after the War, and the Catholic Church was the only outspoken obstacle.¹⁹⁹ Sheen continued, “As Soviet Russia has already served notice that America and Great Britain may not interfere in the question of Poland, so now it serves notice on religion that it may not interfere in the question of Europe.”²⁰⁰

[85] Communist Russia issued the first attacks against the Church, claiming that it had silently endorsed the Nazi atrocities. Soon to control Poland, and other vast areas in Eastern Europe, Russia saw the need to break the loyalty to the Pope of Catholic majorities in those countries. Russia devised a simple plan for destroying the Church: convince the people that the

¹⁹⁶ *Sees Russo-German Peace*, N.Y. TIMES, Feb. 2, 1944, at 11.

¹⁹⁷ *Id.* (emphasis added).

¹⁹⁸ *Id.*

¹⁹⁹ *See id.*

²⁰⁰ *Id.* (internal quotations omitted).

Pope supported the hated Nazis during the War thus neither he nor the Church could be trusted following the War. The destruction of the Church would leave the field wide open for Russian influence and control.

[86] The *New York Times* published an angry editorial: “Of all the incendiary literary bombs manufactured in Moscow . . . and thrown with such light-hearted recklessness into the unity of the Allied nations, none is likely to do greater damage than *Izvestia*’s unjust and intemperate attack upon the Vatican as ‘pro-Fascist.’”²⁰¹ The Vatican is a neutral state, the editor continued, “with which Russia’s two great allies, Britain and the United States, have friendly and confident relations.”²⁰² The United States and Great Britain

have no doubt where the real sympathy of the Vatican lies in this struggle. They recognize the inescapable neutrality of the Pope’s position; but they have had no difficulty in finding in his eloquent declarations clear evidence of his detestation for those who have violated the rights of the little nations, who have committed bestial acts from one end of Europe to the other and who have attempted to elevate the dogma of Totalitarianism to the dignity of a new religion.

Izvestia’s attack is damaging to the unity on which victory depends.²⁰³

[87] American protests were not limited to those by churchmen or by the *New York Times*. Politicians voiced protests in local and state assemblies throughout the country, denouncing as false the accusations that the Pope was either pro-Fascist or a Nazi.²⁰⁴ The New

²⁰¹ *Izvestia and the Vatican*, N.Y. TIMES, Feb. 4, 1944, at 14 (emphasis added).

²⁰² *Id.*

²⁰³ *Id.* (emphasis added).

²⁰⁴ *Moscow Criticism of Vatican Scored: Bronx Member Asks Legislature to “Deplore” Izvestia Attack*, N.Y. TIMES, Feb. 8, 1944, at 7.

York State Legislature voted unanimously on March 18, 1944, to deplore *Izvestia's* attack, recognizing it as an official act of the Soviet government against the Vatican.²⁰⁵ The Legislature pointed out in its resolution that both Pius XI and Pius XII had “condemned [F]ascism, [N]azism and all other forms of totalitarian government in both public and private pronouncements dating back to 1931.”²⁰⁶

[88] The Russians continued their accusations. On February 8, the *New York Times* reported that the Russian Army newspaper, *Red Star*, printed “extracts from a pamphlet on Vatican policy in Europe.”²⁰⁷ Written by Leopold Mannaberg, a former German businessman, the pamphlet criticized “the constant interference of the Vatican in other lands’ policies and the Vatican’s intrigues in the international arena.”²⁰⁸ According to Mannaberg, the Vatican played a leading role in the rise of the Nazi and Fascist regimes in Europe.²⁰⁹ He argued that a strong peace in Europe would not be attained “unless the Vatican was completely deprived of its political power.”²¹⁰

[89] Monsignor Sheen was quick to reply. He stated it was “only natural for the Catholic Church to be opposed by a government that has between eight and ten million political prisoners

²⁰⁵ *Deplores Stand of Soviet on Pope: State Senate Concurs with the Assembly in Scoring Article in Official Izvestia*, N.Y. TIMES, Mar. 19, 1944, §1, at 32 (emphasis added).

²⁰⁶ *Id.*

²⁰⁷ Ralph Parker, *Tass Quotes Slap at Vatican Policy: Soviet News Agency Reprints Charges that Facism was Supported by Pontiff*, N.Y. TIMES, Feb. 9, 1944, at 3.

²⁰⁸ *Id.*

²⁰⁹ *Id.*

²¹⁰ *Id.*

doing slave labor in Russia. No democratic nation has charged the Vatican with lack of sympathy.”²¹¹

[90] In March 1944, Hanson W. Baldwin wrote:

Since Teheran there have been many disturbing trends. Some of these stemmed from Moscow. The *Pravda* article rumoring that Britain was feeling out the Germans on a separate peace, the *Izvestia* denunciation of the Vatican as pro-Fascist, the virtual insistence of Russia upon settling her boundary dispute with Poland on her own terms and without Anglo-American mediation and the companion-piece to this establishment by Moscow of a Polish National Council, which obviously might be groomed to replace the Polish Government in Exile, are all straws in the wind

Russia plainly holds many of the cards in Europe and is playing them aggressively. She has demanded, on the one hand, a voice in the affairs of Western Europe

But she refuses similar representation to Britain and the United States in Eastern Europe And her great cards are military power, international communism used to forward Russia’s national ends and pan-Slavism.

One part of the Russian pattern is plain. Russia’s insistence on taking eastern Poland up to the Curzon Line and the Baltic States, parts of Finland and Bessarabia may represent the limits of her territorial ambitions.

But in addition to purely territorial acquisition, Russia is setting up Governments friendly to her in contiguous territory, or is laying all the necessary groundwork for such maneuvers – Tito in Yugoslavia, establishment of the Polish National Council in opposition to the Polish Government in Exile, the continued support of the Free German National Committee and some communist support for Greek factions. She also made a treaty of mutual assistance and support with Czechoslovakia.

All in all, Russia has definitely indicated that She is greatly interested in most of the European areas east of a line drawn from Koenigsberg in East Prussia to Fiume on the Adriatic.²¹²

²¹¹ *Sheen Assails Russia*, N.Y. TIMES, Feb. 9, 1944, at 3.

[91] The Church and the Vatican stood in the way of Russia's plans for an easy territorial conquest; not because of any alleged pro-German sentiments on the part of Pope Pius XII or the Church and not simply because the Catholic Church had a strong presence in those countries, but because the Pope publicly opposed Soviet aggression and unconditional surrender for Germany. He opposed unconditional surrender on principles of Christian mercy. An eye for an eye had been replaced by Christian forgiveness, and the Pontiff applied this not only to personal relationships but also to the relationship of one state to another, one government to another. Christian morality was to form the basis for international law and relationships – a truly new world order after the War. Those whom he opposed in turn opposed him, especially Russia.

[92] On June 2, 1944, a few days before the Allies entered Rome, Pius XII addressed the Sacred College of Cardinals.²¹³ The Pope “deplored ‘reports of ill-dissimulated violence or openly declared vengeance.’ He announced himself to be against what he characterized as the alternative of complete victory or complete destruction.”²¹⁴ The *New York Times* reported that the Pope, in this address and “through other channels [asked for] a negotiated peace with as many elements of compromise in it as possible.”²¹⁵ This was in opposition to Allied demands for unconditional surrender, which would have rendered Germany incapable of waging war for

²¹² Hanson W. Baldwin, *Dual Policy of Russia Traced: Soviet Union Demands Voice in Western Europe's Problems While Pursuing Unilateral Course in the East*, N.Y. TIMES, Mar. 8, 1944, at 5 (emphasis added).

²¹³ Herbert L. Matthews, *Stimson Sees Pope; Peace Link Hinted*, N.Y. TIMES, July 6, 1944, at 7.

²¹⁴ *Id.*

²¹⁵ *Id.*

many years to come.²¹⁶ This did not endear the Pope to some Americans or British.

Nevertheless,

the Pope's feelings are unquestionably anti-Nazi and anti-Fascist. There can be no doubt about his personal feelings, so far as Hitlerites are concerned. His only worry must obviously be that of the danger of communism in Europe, and on that score the Russians are understood to be giving assurances that religious feelings will be respected.²¹⁷

Anne O'Hare McCormick observed,

The idea that the Pope does not want a complete and decisive victory is erroneous. What concerns him is the policy to be pursued by the victors after the decision has been won. As a spiritual ruler he can hardly be expected to take the same view as the military and political leaders.²¹⁸

[93] In January 1945, Harry Hopkins met with the Pope and Myron C. Taylor, President Roosevelt's personal envoy to the Vatican.²¹⁹ "The Pope did most of the talking," according to the *Times*, and presented his proposal "concerning Poland, Germany, and war rehabilitation."²²⁰ Taylor implied that he would convey the Pope's thoughts to "the Big Three."²²¹ The *Times* noted that the Pope had "intense interest in the Polish question," and claimed that the Pope had proposed three main points:

²¹⁶ *Id.*

²¹⁷ *Id.*

²¹⁸ *Position of Pope in Italy*, *supra* note 114, at 14.

²¹⁹ Milton Bracker, *Hopkins Gets View of Pope on Europe: Poland and Post-War Treatment of Germany Main Topics – Taylor at Meeting*, N.Y. TIMES, Jan. 31, 1945, at 3.

²²⁰ *Id.*

²²¹ *Id.* (internal quotations omitted).

(1) The Vatican backs the plea of the Polish Government in London for a joint Allied government of Poland until a plebiscite is possible. (2) The Pope feels that it is time that the Big Three worked out a definite outline of armistice terms for the Germans – possibly severe but consistent with his previous declarations on the distinction between the more and the less guilty Germans and his known critical attitude toward the formula of unconditional surrender. (3) The Vatican wants the post-war rehabilitation and relief program to be as broad and comprehensive as possible throughout the distressed areas of Europe.²²²

[94] The Vatican continued its swipes at Communism. In January 1945, the *Osservatore Romano* issued a strongly worded condemnation of Communism to clarify that Communism and Catholicism are incompatible.²²³ The condemnation was directed at the Catholic Communist Party in Italy, then renamed the “Christian Left,” which claimed to represent Christian principles and sought Catholic membership even though its platform and ideology were Marxist.²²⁴ The Vatican was justifiably anxious about the growth of Communism in post-war Italy and Europe.

[95] On February 9, 1945, and for some time thereafter, Moscow launched a series of attacks on the Pope. The Bishops of the Russian Orthodox Church gathered with their newly-elected patriarch, Alexei, to broadcast a statement via Moscow radio accusing Pope Pius XII “of condoning fascism by attempting to excuse Germany for its crimes.”²²⁵ They claimed “the Vatican [was] attempting . . . to absolve Hitler Germany from responsibility for all the abominable deeds she has committed and pleading for mercy for the Hitlerites who drenched all

²²² *Id.*

²²³ *Vatican Repeats Communism Stand: Says Marxism, Under Whatever Name is Incompatible with Catholicism*, N.Y. TIMES, Jan. 3, 1945, at 5.

²²⁴ *Id.* (internal quotations omitted).

²²⁵ *Pius Condonees Nazis, Russian Church Says*, N.Y. TIMES, Feb. 10, 1945, at 3.

Europe in the blood of innocent victims,” and to continue Fascism in Europe.²²⁶ In contrast, according to the statement, “the Russian Orthodox Church [conferred] its blessings ‘both on the arms that are now winning liberty from the Hitler tyranny for all peoples and on the great leaders of progressive humanity in the post-war organization of the world which will be theirs to undertake.’”²²⁷

[96] On February 12, 1945, Herbert L. Matthews reported that the Vatican had reacted to the attacks by Moscow.²²⁸ The Italian newspaper *Quotidiano*, an organ of “Catholic Action,” reported that Moscow attacked the Vatican because the Roman Catholic Church stood for liberty against dictatorship.²²⁹ The newspaper asserted that “the Church of Rome in Poland, Czechoslovakia and the Balkans represents freedom of spirit. It represents an obstacle to dictatorship. Hence it must be fought. Moscow intends to make use of her [Orthodox] church for gigantic imperialistic aims.”²³⁰ Matthews commented that “[t]he fact that this attack came from the Patriarch and was addressed to the peoples of the world gives it a more serious aspect than the recent accusations in [a] Russian newspaper.”²³¹

[97] In the midst of the Soviet Union’s attacks against the Church, *The Protestant*, a New York periodical, published a declaration issued by 1,600 Protestant ministers and religious

²²⁶ *Id.*

²²⁷ *Id.*

²²⁸ Herbert L. Matthews, *Stalin’s Hand Seen in Vatican Attack: Rome Paper, Chiding Moscow, Sees Move to Use Orthodox Church for Imperial Aim*, N.Y. TIMES, Feb. 13, 1945, at 11.

²²⁹ *Id.*

²³⁰ *Id.* (internal quotations omitted).

²³¹ *Id.*

leaders in America.²³² According to the declaration, the Vatican should not have any influence in the post-war deliberations since “the Papacy has thrown its weight into the scales of the present human struggle on the side of the enemies of democracy.”²³³ Addressed to Franklin D. Roosevelt, Winston Churchill, and Joseph Stalin,²³⁴ the petition repeated what would become standard misrepresentations of the Pope’s actions during the War, demanding that no religious body, especially not the Vatican, have any part in the post-war deliberations.²³⁵

[98] Other than the *Izvestia* articles, this was the first time such accusations appeared; similar action had been taken against the Church following World War I. The usual anti-Catholic rhetoric of nineteenth century America was repeated as World War II came to an end.

[99] The Soviet attacks, which employed the Russian Orthodox Church to keep the Vatican out of the peace talks, could only have enhanced Russia’s position at the table, since, without the Vatican’s voice, Stalin could press his demands without much opposition. The traditional anti-Catholic bias of Protestant America unwittingly cooperated with Russia, lending its weight to the same goal, resurrecting all the old Anglo-American anti-popery rhetoric in their petition to the Big Three. The American Protestant intervention raised another issue, the Jewish claims to Palestine²³⁶ and the Vatican’s lack of support for such a proposal. One of the

²³² *Era of Anti-Christ Declared at Hand*, N.Y. TIMES, Feb. 19, 1945, at 22.

²³³ *Id.* (internal quotations omitted).

²³⁴ *Id.*

²³⁵ See Kenneth Leslie, *Letters to the Times: Protestant Position Stated – Spokesman for Signers of Declaration Takes Issue with Critic*, N.Y. TIMES, Feb. 28, 1945, at 22.

²³⁶ *Id.*

signatories of the Protestant document wrote, “these are national, not ecclesiastical claims,” and the Vatican should be kept out of the discussions.²³⁷

[100] On February 10, 1945, the former Russian ambassador to Rome, Boris Stein, attacked the Pope, claiming that the Vatican “was a tremendous danger to world peace and post-war security [T]he Vatican had never been a purely religious institution,” Stein charged, and “it usually favored the winning side” in any war.²³⁸

[101] In an address before the Central United Russian War Relief, Inc. in New York City, “Metropolitan Benjamin, head of the archdiocese of the Aleutian Islands and North America and Exarch of the Patriarchal Russian Orthodox Church in Russia,” attacked the Catholic Church for its “attitude of harmful leniency toward defeated fascist nations.”²³⁹ The Russian archbishop enthusiastically endorsed Stalin and other Soviet leaders since “they were doing everything possible to nourish the resurgence of religion now sweeping the Soviet Union.”²⁴⁰ He said,

And speaking of politics, what must the world think of those Roman Catholics who suddenly have become lovers of peace. These are the same priests who were so silent when their fascist friends were killing women and children in Spain, when Hitler was ravaging all of Europe, murdering millions of human beings by the foulest of means. But now that the Red Army has snatched victory from defeat, when the Soviet Union and her allies have brought fascism to its knees, these once so silent Roman Catholics suddenly are clamoring for what they call a just peace.²⁴¹

²³⁷ *Id.*

²³⁸ *Vatican Called Threat to Peace*, N.Y. TIMES, Feb. 11, 1945, § 1, at 17.

²³⁹ *Leniency to Facism Scored by Russian: Metropolitan Benjamin Assails Catholics Who Pleas for Defeated Nations*, N.Y. TIMES, Apr. 9, 1945, at 3 (internal quotations omitted).

²⁴⁰ *Id.*

²⁴¹ *Id.* (internal quotations omitted).

[102] C. L. Sulzberger, the former publisher of the *New York Times*, observed, “The Soviet attitude toward the Vatican and the Roman Catholic Church in general strikes most Americans as rather amazingly caustic and perhaps somewhat ludicrous when one considers that this is the largest state in the world and Vatican City is the smallest.”²⁴² He reported the contents of an article published in the Communist party’s magazine, *Bolshevik*, which made fantastic claims about the Vatican having marshaled the world’s Catholics into an immense international army, inferring the Vatican was able to finance this supposed army because “its resources are great,” and that the army was guided by the bishops and clergy who served as Vatican spies around the globe.²⁴³ The Pope was not neutral, the argument ran, but had intervened in political affairs, supporting both Fascist and Nazi governments.²⁴⁴ The *Bolshevik* claimed that the Pope, a friend of Germany, approved of Hitler and his policies.²⁴⁵ The *New York Times*, here and whenever such false charges were made against the Pope throughout the War, decried these Russian accusations as pure fantasy.

[103] As World War II neared its conclusion, important international meetings were held in San Francisco to consider plans for post-war Europe.²⁴⁶ The major concern was Poland.²⁴⁷

²⁴² C.L. Sulzberger, *Vatican Accused by Russian Writer: Magazine Bolshevik Says Pope Has Been Hostile to Soviet Since Its Creation*, N.Y. TIMES, Apr. 17, 1945, at 5.

²⁴³ *Id.*

²⁴⁴ *Id.*

²⁴⁵ *Id.*

²⁴⁶ See Anne O’Hare McCormick, *San Francisco: Conference Gives Nationalism Fresh Emphasis*, N.Y. TIMES, May 19, 1945, at 18; Anne O’Hare McCormick, *San Francisco: The Delegates Look Ahead from the Conference*, N.Y. TIMES, May 21, 1945, at 18 [hereinafter *The Delegates*]; Anne O’Hare McCormick, *San Francisco: The Work of Organization Goes Ahead*, N.Y. TIMES, May 7, 1945, at 16 [hereinafter *The Work of Organization*]; Anne O’Hare

Compromise between Russia, the United States, and Great Britain was thought to be at hand when sixteen leaders of the Polish underground gathered in “Moscow to confer with Red Army chiefs and others” and were subsequently arrested.²⁴⁸ It was becoming clear, according to Anne O’Hare McCormick, “that the liaison between the Soviet official mind and ours [the U.S.A. and Britain] is still pretty tenuous.”²⁴⁹ She noted:

[a]ll the headaches of this convention center in the relationship between the Soviet Union and the other United Nations. Essentially they boil down to the interrelationship of the Soviet Union and the United States. If these two powers cannot enter into a partnership for peace, the machinery being blueprinted here will never safeguard the peace.²⁵⁰

[104] Keeping up its own pressure, Russia sent out other attacks against the Vatican. In mid-May, 1945, an article in *Izvestia* claimed the Vatican was either hiding or treating German war criminals with leniency.²⁵¹ The article further announced that “at the head of these advocates stands the Vatican, which in the darkest years of the [W]ar never raised its voice against Hitler’s barbarism.”²⁵² Later that month, Moscow, in a German radio broadcast, repeated

McCormick, *San Francisco: Voice of Europe is Muted at Conference*, N.Y. TIMES, May 14, 1945, at 14.

²⁴⁷ *The Work of Organization*, *supra* note 246, at 16.

²⁴⁸ *Id.*; see *The Delegates*, *supra* note 246, at 18.

²⁴⁹ *The Work of Organization*, *supra* note 246, at 16.

²⁵⁰ *Id.*

²⁵¹ *Himmler’s Status Remains Mystery: Moscow Urges Broader Hunt*, N.Y. TIMES, May 14, 1945, at 3.

²⁵² *Id.* (internal quotations omitted).

its charge that “high standing officials connected with the church are pro-Nazi.”²⁵³ Moscow continued, “Pope Pius, in calling for mercy and a more forgiving attitude, had not a word to say about the responsibility of those who had inundated the world with blood and carried out the most monstrous of crimes.”²⁵⁴

[105] The Pope was not silenced by Moscow’s attacks. While addressing the Sacred College of Cardinals in 1945, Pope Pius XII declared that even though the War had ended in one part of the world, grave perils still existed in Europe, not the least of them, a new communist tyranny.²⁵⁵ Among those perils were the “mobs of dispossessed, disillusioned, disappointed, hopeless men who are going to swell the ranks of revolution and disorder, in the pay of a tyranny no less despotic than those for whose overthrow men planned.”²⁵⁶

[106] In a clear reference to the control of the Soviet Union in Eastern Europe, Pius XII said that the people of smaller and medium sized nations “are entitled to refuse to accept a new political or cultural system which is decisively rejected by the great majority of their people.”²⁵⁷ The Pope reviewed the “sorrowful passion of the [C]hurch under [Germany’s] national socialist regime,” and hoped that Germany “can rise to [a] new dignity and new life when once it has laid

²⁵³ *Moscow Broadcast Denounces Bruening*, N.Y. TIMES, May 26, 1945, at 4 (internal quotations omitted).

²⁵⁴ *Id.* (internal quotations omitted).

²⁵⁵ *Text of Pope Pius XII’s Address*, *supra* note 171, at 22.

²⁵⁶ *Id.*

²⁵⁷ *Id.*

the satanic specter raised by National Socialism and the guilty . . . have expiated the crimes they have committed.”²⁵⁸

[107] The Pope explained that the Church’s protests began with Pope Pius XI, who constantly called for fidelity to one’s pledged word after the concordat had been broken repeatedly by Germany.²⁵⁹ In 1937, Pius XI condemned the reality of Hitler’s regime as “the arrogant apostasy from Jesus Christ, the denial of His doctrine and of His work of redemption, the cult of violence, the idolatry of race and blood, the overthrow of human liberty and dignity.”²⁶⁰ The world had not listened to the Church’s warning.²⁶¹ “But in any case nobody could accuse the [C]hurch of not having denounced and exposed in time the true nature of the National Socialist movement and the danger to which it exposed Christian civilization.”²⁶² Pius XI was clear in his encyclical, *Mit brennender Sorge*:

Whoever exalts race, or the people, or the State, or a particular form of State, or the depositories of power, or any other fundamental value of the human community – however necessary and honorable be their functions in worldly things – whoever raises these notions above their standard value and divinizes them to an idolatrous level, distorts and perverts an order of the world planned and created by God²⁶³

The radical opposition of the National Socialist State to the Catholic Church is summed up in this declaration of the encyclical. When things had reached this point the [C]hurch could not without

²⁵⁸ *Id.*

²⁵⁹ *Id.*

²⁶⁰ *Id.*

²⁶¹ *Id.*

²⁶² *Id.*

²⁶³ MIT BRENNENDER SORGE, *supra* note 9, para. 8, at 527.

foregoing her mission any longer refuse to take her stand before the whole world.

But by doing so she became once again “a sign which shall be contradicted,” in the presence of which contrasting opinions divided off into two opposed camps.²⁶⁴

[108] In 1937, the year of the encyclical, the violence against the Church in Nazi Germany was marked with “indescribable bitterness and terrible outbreaks.”²⁶⁵ For, the next two years, and throughout the War, National Socialists “flattered themselves with the idea that once they had secured victory in arms they could do away with the church forever.”²⁶⁶ Plans and more “intense activity” to destroy the Church continued, especially in Austria and, “above all, in those parts of Poland which had already been incorporated in the old Reich during the War: there everything was attacked and destroyed; that is, everything that could be reached by external violence.”²⁶⁷

[109] The Pope wrote,

Continuing the work of our predecessor, we ourselves have during the war and especially in our radio messages constantly set forth the demands and perennial laws of humanity and of the Christian faith in contrast with the ruinous and inexorable applications of national socialist teachings, which even went so far as to use the most exquisite scientific methods to torture or eliminate people who were often innocent.²⁶⁸

²⁶⁴ *Text of Pope Pius XII's Address, supra* note 171, at 22.

²⁶⁵ *Id.*

²⁶⁶ *Id.*

²⁶⁷ *Id.*

²⁶⁸ *Id.*

[110] Such suffering alone convinced people to listen to the Church. The Pope's Christmas message of 1942, in particular, was studied widely in Germany "despite every prohibition and obstacle."²⁶⁹ Thousands of Roman Catholics, "whose only crime was their fidelity to Christ," were interned in prisons and camps.²⁷⁰ Those who suffered most were the Polish priests. "From 1940 to 1945 2,800 Polish ecclesiastics and religious were imprisoned in [Dachau]."²⁷¹ By April 1945, only 816 survived.²⁷² Priests from dioceses in Bavaria, the Rhineland, and Westphalia, as well as from the occupied territories of Holland, Belgium, France, Slovenia, and Italy had died in the death camps.²⁷³

V. CONCLUSION

[111] Silent, Pope Pius XII and the Roman Catholic Church were not.

[112] Pope Pius XII and the Roman Catholic Church did much throughout World War II to bring the world's attention to the plight of the Jews in Europe, to reverse the genocidal policies and practices of Nazi Germany, Fascist Italy, and the regimes operating in the conquered countries of Europe, and to help thousands of Jews to escape these regimes and their death camps. The Pope's outspokenness is established simply by looking at articles in the *New York Times* during the same period. The *Times* reported that the Pope was not silent, often applauding him for what he did do and say, and the Church was quite active during the War.

²⁶⁹ *Id.*

²⁷⁰ *Id.*

²⁷¹ *Id.*

²⁷² *Id.*

²⁷³ *Id.*

[113] Following World War II, public gratitude was extended to the Pope, the Church, and the clergy for their contribution in the struggle to save Jews in Italy and throughout Europe. Members of the Jewish Community made numerous tributes to the Pope, including a gift of \$20,000 from the World Jewish Congress to the Vatican “in recognition of the work of the Holy See in rescuing Jews from Fascist and Nazi persecution.”²⁷⁴ The tributes after the War were followed by other numerous tributes made by political and religious leaders and laypersons of all faiths upon the Pope’s death.²⁷⁵ The tributes repeatedly referred to the Pope’s efforts to save the Jews and humanity during the War.²⁷⁶ The *Times* also reported that numerous synagogues in New York City expressed gratitude for the Pope’s efforts during World War II.²⁷⁷ On October 9,

²⁷⁴ *Gives \$20,000 to Vatican*, N.Y. TIMES, Oct. 11, 1945, at 2.

²⁷⁵ See, e.g., *Eisenhower Airs Grief of Nation*, N.Y. TIMES, Oct. 9, 1958, at 24 [hereinafter *Eisenhower Airs Grief*] (noting tributes by President Eisenhower, James A. Farley, and Rabbi Maurice N. Eisendrath; President of the Union of American Hebrew Congregations, among others); *Israel Pays Tribute*, N.Y. TIMES, Oct. 10, 1958, at 13 (noting tribute by Chief Rabbi Isaac H. Herzog of Israel); *Sorrow is Voiced by Public Figures*, N.Y. TIMES, Oct. 10, 1958, at 12 [hereinafter *Sorrow is Voiced*] (noting tributes by Former President Truman; Former President Hoover; Adlai E. Stevenson; Bernard Baruch; Rabbi Theodore L. Adams, president of the Synagogue Council of America; Irving M. Engel, president of the American Jewish Committee; Rabbi Joachim Prinz, president of the American Jewish Congress; Dr. Israel Goldstein, chairman of the Western Hemisphere Executive of World Jewish Congress; Rabbi Alan Steinbech, president of the New York Board of Rabbis; Mrs. Moise S. Cahn, president of the National Council of Jewish Women; Rabbi Jacob P. Rudin, president of the Central Conference of American Rabbis among others); *U.S. Synagogue Unit Expresses Regret*, N.Y. TIMES, Oct. 9, 1958, at 21 [hereinafter *U.S. Synagogue Unit*] (noting a tribute by the Synagogue Council of America).

²⁷⁶ See, e.g., *Eisenhower Airs Grief*, *supra* note 275, at 24; *Sorrow is Voiced*, *supra* note 275, at 12; *U.S. Synagogue Unit*, *supra* note 275, at 21.

²⁷⁷ *Pius is Extolled by Rabbis in City: Gratitude Voiced for Succor to Jews – Praised for Life Dedicated to Peace*, N.Y. TIMES, Oct. 12, 1958, § 1, at 5.

1958, Leonard Bernstein began a performance of the New York Philharmonic by asking the audience to stand and observe a minute of silence in tribute to Pius XII.²⁷⁸

[114] Among the many tributes to Pope Pius XII, there was only one negative report, which came from Paris.²⁷⁹ An article published by the Communist official organ, *L'Humanite*, accused the late Pope of allowing his “doctrinal condemnation [of Marxist atheism] to be transformed into an arm of anti-Soviet policy in Europe and the world.”²⁸⁰ Furthermore, the article charged that even though “the Pope had spoken out against atomic bombs, [he] had encouraged the Governments responsible for the present atomic arms race.”²⁸¹ The article “criticized the Pope for not having taken a stand against the Nazi concentration camps during the [W]ar.”²⁸² Thus, it is clear that Soviet Russia was the source of the false accusation that Pope Pius XII had been silent during the Holocaust. It was propaganda for communist ends.

[115] As seen in the news reports and editorials printed in the *New York Times* during the War years, contemporary evidence shows that everyone knew the Pope was speaking about the Jews in his numerous condemnations of Nazi policies. It was clear the Pope was speaking about their situation and trials even though he spoke in religious terms and from a higher moral level rather than merely condemning individual actions. Yet his condemnations were clear, and his contemporaries understood them.

²⁷⁸ Harold C. Schonberg, *Preview Offered at Philharmonic: Bernstein Begins Program with Tribute to Pope*, N.Y. TIMES, Oct. 10, 1958, at 35.

²⁷⁹ *France to Send a Mission*, N.Y. TIMES, Oct. 11, 1958, at 2.

²⁸⁰ *Id.*

²⁸¹ *Id.*

²⁸² *Id.*

[116] The efforts to save the Jews were only part of a greater good the Church tried to accomplish: the protection of all persons from the totalitarian governments that sought to enslave them. The Church strove to uphold and defend the foundational truth that the human person is the image of God.

[117] Stalin had once cynically asked, “How many divisions has the Pope?” His question is important because while the Pope may condemn moral wrongs he has no military might to support his words. Pius XII did strongly and clearly condemn the Nazi and Fascist government extermination of the European Jewish community; but he had only words and prayers in his armory. Neither words nor prayers moved Hitler; he respected only guns and armies. Only Hitler and the Allied forces could stop the killing. Hitler refused; the Allies arrived too late.

[118] The Pope did what he could, and he succeeded in saving thousands of Jews throughout Europe. Neither he nor the Church could save all, but they worked diligently to save as many innocent men, women, and children as possible.

[118] We must never forget the tragedy of the Holocaust. Likewise, we must never forget the efforts of Pius XI and Pius XII to save the Jews and to save mankind from debasement and destruction at the hands of the Nazi machine and the totalitarian governments.