

**MORALITY, LAW, AND THE SOCIALIST SEXUAL SELF IN THE GERMAN  
DEMOCRATIC REPUBLIC, 1945-1972**

**by**

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## LIST OF ABBREVIATIONS

- BG:** *Bezirksgericht* (Regional Court)  
**BGB:** *Bürgerliches Gesetzbuch* (Civil Code)  
**DDR:** *Deutsche Demokratische Republik*  
**DFD:** *Demokratischer Frauenbund Deutschlands* (Democratic Women's League of Germany)  
**DGFS:** *Deutsche Gesellschaft für Sexualforschung* (German Society for Sexual Research)  
**EFB:** *Ehe- und Familienberatungsstelle* (marital and family counseling center)  
**EFSB:** *Ehe-, Familien-, und Sexualberatungsstelle* (marital, family, and sexual counseling center)  
**EheVO:** *Eheverordnung* (Marriage Ordinance)  
**ESB:** *Ehe- und Sexualberatungsstelle* (marital and sexual counseling center)  
**FDGB:** *Freier Deutscher Gewerkschaftsbund* (Free German Trade Union Federation)  
**FDJ:** *Freie Deutsche Jugend* (Free German Youth)  
**FGB:** *Familiengesetzbuch* (Family Law Code)  
**FRG:** Federal Republic of Germany  
**GDR:** German Democratic Republic  
**HA:** *Hauptabteilung* (main department)  
**ICSE:** International Committee for Sexual Equality  
**KG:** *Kreisgericht* (District Court)  
**KPD:** *Kommunistische Partei Deutschlands* (Communist Party of Germany)  
**MdI:** *Ministerium des Innern* (Ministry of Internal Affairs)  
**MdJ:** *Ministerium der Justiz* (Ministry of Justice)  
**MfG:** *Ministerium für Gesundheitswesen* (Ministry of Health)  
**MTS:** *Maschinen-Traktoren-Station* (Machine and Tractor Station)  
**OG:** *Oberstes Gericht* (Supreme Court)  
**PSW:** *Personenstandswesen* (marriage bureau)  
**SBZ:** *Sowjetische Besatzungszone* (Soviet Occupation Zone)  
**SED:** *Sozialistische Einheitspartei Deutschlands* (Socialist Unity Party of Germany)  
**StEG:** *Strafrechtsergänzungsgesetz* (Supplement to the Penal Code)  
**StGB:** *Strafgesetzbuch* (Penal Code)  
**VEB:** *Volkseigener Betrieb* (People's Enterprise)  
**VEG:** *Volkseigenes Gut* (People's Estate)  
**VVN:** *Vereinigung der Verfolgten des Naziregimes* (Union of the Victims of the Nazi Regime)  
**WhK:** *Wissenschaftlich-humanitäres Komitee* (Scientific-Humanitarian Committee)

## ABSTRACT

While many existing accounts attribute the emergence of a new sexual sensibility in the German Democratic Republic (GDR) to the liberalization of laws regarding contraception and abortion that accompanied the beginning of Erich Honecker's tenure as First Secretary of the Socialist Unity Party (SED) in the early 1970s, "Morality, Law, and the Socialist Sexual Self in the German Democratic Republic, 1945-1972" revisits the 1950s and 1960s as a crucible for sexual change. In the absence of Western-style civil society and the overt commodification of sexuality, the presence or absence of a "sexual revolution" in the GDR must be assessed with different yardsticks. Despite the depredations of Stalinism and Nazism and the conservative moral climate of the early Cold War years, the spirit of Weimar-era progressive sex reform continued to inform the tenor of sexual change in the legal realm and in marital counseling, albeit in a muted fashion.

Indeed, it was in part because of this legacy that the SED came to respect the inviolability of the right to private same-sex sexual intimacy despite its ostensible commitment to abolishing the concepts of the rights-bearing individual and the public-private divide from liberal jurisprudence. While many observers have criticized the East German polity for having failed to abide by its rhetorical commitment to gender equality, the SED promulgated new norms regarding the age of marital consent and no-fault divorce as part of a sincere effort to change the gendered dynamics of domestic life. This

endeavor, however, was undermined by the regime's willful obliviousness to the discordance between official and popular mores. By inviting citizens to submit petitions (*Eingaben*) and visit an expanded network of marital counseling centers, the regime facilitated the proliferation of discourse on sexual topics that many in the regime would rather have left unspoken. Through an amalgam of ideological and medical measures designed to shape the socialist sexual self, the SED effectively redefined the terms of biopolitical interventions under state-socialist auspices in ways that were not reducible to demographic concerns alone.

## CHAPTER 1. INTRODUCTION

Peter B. of Schwerin expected better of socialism. In 1952, he showed no compunction about expressing his dissatisfaction to governmental authorities about the lack of official recognition for nonmarital heterosexual relationships in the nascent German Democratic Republic (*Deutsche Demokratische Republik*, or GDR), which had come into being in 1949:

I know that I am in agreement with many progressively minded people in our republic when I point to the pressing need to resolve a problem that has been handled in everyday life in a way that has not kept pace with the development of societal conditions in other respects. I am referring to the type of relationship between two people that is known as a common-law marriage (*Gewissensehe*).<sup>1</sup>

Peter B. was frustrated by the ostensible foreclosure of alternative conceptions of sexual morality because he took the “progressive” rhetoric of the Socialist Unity Party (*Sozialistische Einheitspartei Deutschlands*, or SED) on face value. As Detlef Pollack notes, “The SED always appeared in public with the claim of representing the more progressive social concepts and of being superior to all previous social systems. Belief in progress was an important source of legitimization for the system.”<sup>2</sup> Even “official

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<sup>1</sup> BArch Berlin-Lichterfelde, DO1 7212, Teil 2, letter from Peter B., Schwerin, to Ministerium des Innern (hereafter MdI), Abteilung für Personenstandsfragen (his rendering—it was actually the Abteilung für Personenstandswesen, hereafter Abt. für PSW), Berlin, March 30, 1952, 1 of document. As Ute Schneider’s research reveals, an entreaty like Peter B.’s was not an isolated occurrence. Ute Schneider, *Hausväteridylle oder sozialistische Utopie?: Die Familie im Recht der DDR* (Cologne: Böhlau, 2004), 196-200. Unless otherwise noted, all translations in this dissertation are my own.

<sup>2</sup> Detlef Pollack, “Modernization and Modernization Blockages in GDR Society,” in *Dictatorship as Experience: Towards a Socio-Cultural History of the GDR*, ed. Konrad H. Jarausch (New York: Berghahn,

culture under [SED First Secretary and East German Head of State Walter] Ulbricht” exhibited a “strange admixture of wild utopian aspirations and *kleinbürgerlich* norms for personal behavior.”<sup>3</sup> The frequent injunctions for citizens to assimilate Communist values through workplace brigades and other collectives also provided opportunities for East Germans to remind one another of the SED’s ostensible silencing of the “progressive” mores that had been espoused by the Communist Party of Germany (*Kommunistische Partei Deutschlands*, or KPD) before the onset of National Socialist rule.<sup>4</sup>

Peter B. interpreted the constitutional guarantee of equality for children born in and out of wedlock to mean that the government was obliged to put marital and nonmarital heterosexual relationships on an equal legal footing as well, and that greater societal acceptance of common-law marriages would necessarily ensue. Although he and his partner, an actress who lived in Leipzig, had a “serious, lasting, and monogamous” relationship, they did not want to get married while professional commitments required them to reside in different cities. They did, however, consider themselves entitled to the train travel discount afforded to spouses who lived separately because they believed that

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1999), 27-46, here 35-36; Paul Betts, *Within Walls: Private Life in the German Democratic Republic* (New York: Oxford University Press, 2010), 188.

<sup>3</sup> Joshua Feinstein, *The Triumph of the Ordinary: Depictions of Daily Life in the East German Cinema, 1949-1989* (Chapel Hill: University of North Carolina Press, 2002), 79. *Kleinbürgerlich* is best translated as “petty-bourgeois.”

<sup>4</sup> Donna Harsch, “Society, the State and Abortion in East Germany, 1950-1972,” *American Historical Review* 102, no. 1 (February 1997), 53-84, here 79. Josie McLellan notes that “[a] common tactic amongst petitioners was to criticize the regime for not being progressive enough, while stressing their own socialist credentials.” Josie McLellan, *Love in the Time of Communism: Intimacy and Sexuality in the GDR* (New York: Cambridge University Press, 2011), 152-153.

the national train service was already offering such a discount to unmarried partners of its own employees.<sup>5</sup>

Whether or not such a discount for train travel existed, a few officials had been contemplating the prospect of affording some form of recognition to nonmarital relationships during the Occupation Zone period (1945-1949). Helmut R., for instance, was confused by the use of the term “female life partner” (*Lebenskameradin*) during an event organized by the social insurance agency (*Sozialversicherungsanstalt*, or SVA) in 1948. A Ministry of Internal Affairs official informed him that “[t]he term ‘*Lebenskameradin*’ is to be used when a man and a woman have lived together for a long period of time without having gotten married or intending to marry,” and that the SVA could exercise discretion in determining the types of insurance benefits to which unmarried couples would be privy. If a life partnership was recognized as such, then a *Lebenskameradin* could be eligible for the same social insurance benefits as a legally married woman would be.<sup>6</sup>

But there was no sign of the SVA’s relative open-mindedness for Peter B., who complained of having to suffer the indignity of being denied a hotel room with his partner in Erfurt because the clerk was afraid of “possible conflicts with the police” for aiding and abetting what he took to be an illicit sexual encounter. As Annette Timm remarks about the early postwar years,

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<sup>5</sup> BArch Berlin-Lichterfelde, DO1 7212, Teil 2, letter from Peter B., Schwerin, to Mdl, Abt. für PSW, Berlin, March 30, 1952, 2 of document.

<sup>6</sup> BArch Berlin-Lichterfelde, DO1 7212, Teil 2, letter from Helmut R., Altenburg, to Mdl, Berlin, March 4, 1950; BArch Berlin-Lichterfelde, DO1 7212, Teil 2, letter from i. A. Neumann, Mdl, Berlin, to Helmut R., Altenburg, March 17, 1950.

While some individuals were demanding help in repairing the damage that the war had wrought on marriages and families, others were openly flaunting nonmarital sexuality. Yet in some sense, the behavior of both groups reveals a similar trend. Both displayed attitudes that rejected the state's interference in reproductive and sexual decisions. In a larger sense, one could also argue that they were displaying a desire to unlink sexuality and intimate relationships from reproduction.<sup>7</sup>

In order to “pull the rug from under [...] petty-bourgeois attitudes [like those of the hotel clerk] in the future,” Peter B. asked for the Ministry of Internal Affairs to provide a certificate attesting to the unobjectionable nature of his relationship after the local police and family law court did not prove amenable to his entreaties.<sup>8</sup> The Ministry ultimately denied his request, but not before consulting with the head of the police to verify that there was in fact no certification process for common-law unions. Ultimately, the constitutional guarantee of governmental protection for “marriage and family” would not extend to nonmarital relationships.<sup>9</sup> While the SED emulated the KPD in rejecting criminal penalties for adultery and endorsing no-fault divorce, it definitively distanced itself from the “free love” ethos that had animated parts of the Weimar-era Left.<sup>10</sup>

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<sup>7</sup> Annette F. Timm, *The Politics of Fertility in Twentieth-Century Berlin* (New York: Cambridge University Press, 2010), 329-330.

<sup>8</sup> BArch Berlin-Lichterfelde, DO1 7212, Teil 2, letter from Peter B., Schwerin, to Mdl, Abt. für PSW, Berlin, March 30, 1952, 3 of document.

<sup>9</sup> BArch Berlin-Lichterfelde, DO1 7212, Teil 2, letter from Lust, Chefinspekteur der Volkspolizei und Leiter der Hauptabteilung (hereafter HA) Pass- und Meldewesen, Mdl, Hauptverwaltung Deutsche Volkspolizei und Leiter der HA, to Mdl, HA Staatliche Verwaltung, Berlin, May 12, 1952; BArch Berlin-Lichterfelde, letter from Röder, Mdl, Berlin, to Peter B., Schwerin, May 24, 1952. In 1951, the Ministry of Internal Affairs had turned down a similar request by Magdalene S. of Schwerin, who might very well have been Peter B.'s partner. Magdalene S. requested recognition of a common-law marriage with her male cohabitational relationship partner of two and a half years whose divorce had not yet been finalized. BArch Berlin-Lichterfelde, DO1 7212, Teil 2, letter from Magdalene S., Schwerin, to Mdl, HA Staatliche Verwaltung, Abt. für PSW, Berlin, November 12, 1951; BArch Berlin-Lichterfelde, DO1 7212, Teil 2, letter from Sorgenicht, Leiter der HA Staatliche Verwaltung, Mdl, Berlin, to Magdalene S., Schwerin, November 17, 1951.

<sup>10</sup> Willem Melching, “‘A New Morality’: Left-Wing Intellectuals on Sexuality in Weimar Germany,” *Journal of Contemporary History* 25 (1990), 69-85, here 80.

Peter B. might not have been intimately acquainted with the intellectual legacy of Soviet sexual theorist Aleksandra Kollontai, but his campaign to secure recognition of his nonmarital partnership would have resonated with her utopian sexual imaginings. In the aftermath of the Bolshevik Revolution of 1917, Kollontai envisioned a “future of eros freed from the constraints of private property, sex inequality, and hypocritical moral convention” and who had “acknowledged the value of experimentation in (heterosexual) love relationships.”<sup>11</sup> The Bolshevik flirtation with “free love” took legislative form when the government liberalized divorce provisions, decriminalized consensual male same-sex sexual acts, and granted recognition to nonmarital heterosexual partnerships.<sup>12</sup> Kollontai was also at the forefront of intensive collaboration during the 1920s between Soviet and German researchers, theorists, and activists under the umbrella of the World League for Sexual Reform, an organization founded in 1919 by Dr. Magnus Hirschfeld that was based in Berlin.<sup>13</sup>

But the initial wave of Soviet legislative reforms provoked a backlash on the part of those who defended conventional marital norms and rejected homosexuality as “unproletarian.” Already in 1923, fellow Bolsheviks harbored no qualms about

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<sup>11</sup> Dan Healey, *Homosexual Desire in Revolutionary Russia: The Regulation of Sexual and Gender Dissent* (Chicago: University of Chicago Press, 2001), 111; Barbara Taylor, *Eve and the New Jerusalem: Socialism and Feminism in the Nineteenth Century* (New York: Pantheon Books, 1983); Alexandra Kollontai, *Selected Writings of Alexandra Kollontai*, trans. and ed. Alix Holt (Westport, CT: L. Hill, 1977 [1918]); Gregory Carleton, *Sexual Revolution in Bolshevik Russia* (Pittsburgh: University of Pittsburgh Press, 2005), 40.

<sup>12</sup> According to Grigorii Batkis, director of the Moscow Institute of Social Hygiene, the new legislative ethos reflected the “absolute non-interference of the state and society in sexual matters, so long as nobody is injured, and no one’s interests are encroached upon.” Blanche Wiesen Cook, “Feminism, Socialism, and Sexual Freedom: The Work and Legacy of Crystal Eastman and Alexandra Kollontai,” in *Women in Culture and Politics: A Century of Change*, eds. Judith Friedlander, Blanche Wiesen Cook, Alice Kessler-Harris, and Carroll Smith-Rosenberg (Bloomington: Indiana University Press, 1986), 358-375, here 373-374.

<sup>13</sup> Healey, *Homosexual Desire in Revolutionary Russia*, 111, 132-133.

attacking Kollontai for her espousal of “free love” and “bourgeois feminism.”<sup>14</sup> Indeed, when Hirschfeld visited the USSR in 1926, he was disappointed by the recrudescence of prudishness, the decline in scientific interest in homosexuality, and the absence of organized Soviet sex reform activism that could forestall the retrenchment of newly hard-won sexual liberties.<sup>15</sup> This backlash set the stage for the Stalinist disavowal of the decriminalization of homosexuality in 1934 and the retrenchment of divorce-on-demand and recognition of nonmarital partnerships in 1944. These legislative changes occurred in the USSR as the National Socialist government was eviscerating the progressive sex reform movement that had flourished in Weimar Germany. The new direction in Soviet policy was decisive in shaping the sexual asceticism and traditionalism of many German Communists who had gone into Soviet exile to avoid Nazi persecution.<sup>16</sup> Even after the depredations of Nazism and Stalinism, however, East German Communism after 1945 contained both the seeds of sexual radicalism and the inclination to suppress it.

Interestingly, it was in the ostensibly more “conservative” Federal Republic of Germany (FRG) that nonmarital heterosexual relationships met with a greater degree of official and popular acceptance—at least under certain circumstances. A 1948 survey in Hamburg and Schleswig-Holstein, both of which were located in the western zones of occupation, found that 61 percent of respondents believed that “free love” was *not*

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<sup>14</sup> Healey, *Homosexual Desire in Revolutionary Russia*, 133.

<sup>15</sup> Healey, *Homosexual Desire in Revolutionary Russia*, 138.

<sup>16</sup> Andrew I. Port, “Love, Lust, and Lies under Communism: Family Values and Adulterous Liaisons in Early East Germany,” *Central European History* 44, no. 3 (September 2011), 478-505, here 490.

immoral, with an additional 10 percent of survey participants claiming to be undecided.<sup>17</sup> Also noteworthy is the fact that a June 23, 1950 West German law stipulated recognition of common-law marriages for individuals who had not been able to marry under Nazi rule because of persecution on racial or political grounds.

When faced with the perceived upheaval of marriage as an institution and unresolved questions of legal parity between the two new German states, the SED's self-ascribed antifascist principles met their limits. The East German regime thus opted not to issue retroactive marriage certificates for Nazi-era common-law marriages.<sup>18</sup> Waltraud S. had been classified by the Nazis as a person of multiracial origin (*Mischling*) of the first degree and had for this reason been prevented from marrying her fiancé Fritz K., who was missing in action since January 1945. She therefore asked the East German government to provide retroactive recognition of her common-law marriage (*freie Ehe*) so that "justice [would] supplant injustice," but instead Mr. Neumann of the Ministry of Internal Affairs informed her that

[s]ince the GDR and its administrative bodies are not the legal successors of the fascist state, you cannot expect us to provide recompense for the injustice that you suffered as a result of National Socialist administrative and legal actions, which are doubtlessly invalid (*nichtig*). [...] Issuing a retroactive marriage certificate for your life partnership with Mr. K. would be the equivalent of allowing someone to marry a dead person, and we thus must reject this request for ethical reasons.<sup>19</sup>

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<sup>17</sup> Elizabeth D. Heineman, *What Difference Does a Husband Make?: Women and Marital Status in Nazi and Postwar Germany* (Berkeley: University of California Press, 1999), 130.

<sup>18</sup> BArch Berlin-Lichterfelde, DO1 7212, Teil 2, letter from i. A. Reinwardt, Abteilungsleiter, MdI, Berlin, to Landesregierung Sachsen-Anhalt, MdI, HA Staatliche Verwaltung, Referat für PSW, Halle/Saale, October 1, 1951; BArch Berlin-Lichterfelde, DO1 7212, Teil 2, letter from Nathan, Leiter der HA Gesetzgebung, MdJ, Berlin, to MdI, HA Staatliche Verwaltung, Berlin, March 4, 1950.

<sup>19</sup> BArch Berlin-Lichterfelde, DO1 7212, Teil 2, letter from Neumann, MdI, Berlin, to Waltraud S., Seifhennersdorf, March 16, 1950.

Waltraud S. was supposed to derive consolation from the fact that children born out of wedlock were no longer at a legal disadvantage in the GDR, and that she could assume her deceased life partner's surname should she wish to do so. She certainly wanted to adopt the surname "of the man that meant everything to me," but not if the only way of doing so was through an "act of mercy" on the part of the government.<sup>20</sup>

Waltraud S. was distraught because the East German government was effectively compounding Nazi injustice with its own lack of empathy:

I too am convinced that the anticipated reform of family law will confer further legal advantages upon my children. But if Mr. Neumann believes that I am experiencing no disadvantages as a result of my legal status as a single woman, then he knows little about popular opinion in the countryside, which has changed little from what it was before. It is, after all, not a secret that the consciousness of people, especially those living in the countryside, lags significantly behind the spirit of progressive legislation. People in the countryside still consider me to be a single *Fräulein* with two children born out of wedlock and thus assume that I lead a profligate lifestyle (*leichten Lebenswandel*). I always have to check off "single" on any official documents (census, indicating marital status [on forms], etc.). The [GDR's] democratic administrative bodies thus continually cause me pain since they remind me of the injustice that was done to me. Perhaps you do not understand me either, Minister [Steinhoff], since a woman probably feels differently about such things.<sup>21</sup>

Like Peter B., Waltraud S. bewailed the fact that popular attitudes lagged behind the "progressive" spirit of SED rhetoric even as she excoriated the government for not living up to its own ideals in the formulation and implementation of its laws regarding marriage. Despite their frustrations, however, both Peter B. and Waltraud S. were convinced that the government could and should lead the way in changing the tenor of popular opinion when it came to marital morality.

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<sup>20</sup> BArch Berlin-Lichterfelde, DO1 7212, Teil 2, letter from Waltraud S., Seifhennersdorf, to Steinhoff, MdI, Berlin, June 6, 1950, back side of page.

<sup>21</sup> Ibid., front side of page.

The role of the East German party-state as an arbiter of sexual morality is a thread that weaves throughout this dissertation. As a matter of general principle, socialist jurisprudence was supposed to reflect the moral “views of the working people,” but it was also intended to educate those “working people” whose consciousness had not yet caught up with socialist expectations. In practice, however, it proved harder to achieve a perfect congruence between law and morality. Existing historical accounts typically focus on East German legal and juridical practice as a transparent conduit of state power and a mechanism for political repression. Politically inflected persecution veiled under the moralistic guise of warding off the allegedly invidious influence of fascism, capitalism, and imperialism was certainly a key element of jurisprudence under state-socialism. But Inga Markovits and Klaus Westen recognize that repression was not the primary motivation for every aspect of the SED’s legal and judicial vision, and Paul Betts exhorts other scholars to follow their lead in privileging nuanced analysis over monolithic condemnation.<sup>22</sup>

The task of devising an East German legal codex that affirmed even as it sought to discipline popular mores was inherently contradictory—especially when it came to the realm of sexuality, for which a universally accepted catechismic text was lacking. This disjuncture provided ample opportunity for the articulation of heterogeneous viewpoints both within and beyond governmental circles. When it came to deliberating the fate of § 175, the statute that penalized consensual same-sex sexual acts involving adult men, policymakers went back and forth regarding the need for the law to enforce the governmental and popular disapprobation of homosexual conduct. Those who endorsed

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<sup>22</sup> Betts, *Within Walls*, 148.

decriminalization did so in a “bourgeois” jurisprudential idiom—namely, that the state should not intervene in private intimate encounters that transpired without attracting public notice. Instead, “societal forces” (*gesellschaftliche Kräfte*) like mass organizations, workplace collectives, and neighborhood busybodies were supposed to take the place of the law in educating their peers about the incommensurability of gay identity with a conception of “healthy” socialist personhood. Ultimately, the impetus to repeal § 175 in the GDR stemmed on the one hand from the SED’s respect for the inviolability of the private sphere, in the sense that homosexual acts that transpired out of public view and that did not harm third parties would no longer be subject to legal sanction. On the other hand, the party displayed its heedlessness of the right to privacy given its expectation that societal proscription would prove mightier than the arm of the law in curtailing the prevalence of homosexual acts.

In the case of marriage and divorce law, “societal forces” were ideally to complement rather than supplant the legal code in enforcing ethical expectations. But many judges and officials did not trust that collectives were in a position to do so. Some felt that such intervention constituted an unwarranted form of prying that would generate resentment rather than good will. Others doubted the efficacy of collective intervention, not least because they could not count upon colleagues and neighbors to have internalized socialist moral injunctions. Indeed, like Waltraud S., a number of ordinary East Germans were incensed by the obtuseness of a government that failed to abide by its own shibboleths when it came to its ostensible exoneration of marital infidelity through no-fault divorce and alimony regulations that frequently allowed adulterous husbands to remarry without incurring any financial obligations to their ex-wives. Others were

incredulous that officials would heedlessly increase the age of marital consent and thereby consign many more young women to the still-stigmatized status of unwed motherhood. Thus “expecting better” of socialism could take the form of chastising the party-state for failing to abide by its “progressive” principles *or* for being too “progressive” in advancing a legislative agenda that contravened widely held views.

The rapid proliferation of sexual and marital counseling centers in the wake of the 1965 Family Law Code resulted in part from an implicit concession by the SED that legal and societal intervention would not suffice in resolving conjugal conflict. The task of imbuing marriages with socialist moral content was not a task for political propaganda alone. But would officials jealous of guarding their prerogatives be willing to accept scientific expertise as a viable substitute for more ideologically driven forms of legal intervention?

### **Normalization and Its Discontents**

Expecting better of socialism implied some degree of belief in the legitimacy of the GDR’s system of governance. The 1990s witnessed a schism in the burgeoning field of GDR historiography between an accusatory stance that viewed the GDR as a fundamentally illegitimate Soviet imposition on the one hand and a tendency to characterize the GDR as a good idea that was badly implemented on the other hand.<sup>23</sup> Out of this historiographical thicket has emerged a debate over “normalization,” or the extent to which everyday life in the GDR could evade such dystopian or utopian

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<sup>23</sup> Konrad H. Jarausch, “Beyond Uniformity: The Challenge of Historicizing the GDR,” in Jarausch, ed., *Dictatorship as Experience*, 3-14, here 3-4.

parameters.<sup>24</sup> Mark Allinson considers a significant impetus for thematizing “normalization” in historical scholarship on the GDR to have been the desire to move beyond a dichotomy predicated upon excoriating or apologizing for the SED regime.<sup>25</sup> Instead, this new analytical focus has arguably resulted in a hardening of the schism. Indeed, Martin Sabrow identifies proponents of the normalization paradigm as falling squarely on the exonerative end of the historiographical divide.<sup>26</sup>

Mary Fulbrook, the primary proponent of the “normalization” paradigm, argues that the claim of East Germans to have led “normal” lives under SED rule is one that should be taken seriously, rather than dismissed as an apologetic stance or a misguided outgrowth of *Ostalgie*, a nostalgic celebration of the retrospectively positive aspects of the East German experience. For Fulbrook, “normalization” in the GDR entailed an internalization of routines and viewpoints dictated by the SED in such a way that did not irreversibly distort the “normality” of everyday life.<sup>27</sup> The “normalization” turn in historical scholarship on East Germany resonates with recent work on the USSR that “has challenged long-held views according to which the Stalinist totalitarian self represented

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<sup>24</sup> The term “normalization” has a fundamentally different meaning in the historiography of other countries in the Soviet Bloc. “Normalization” in Hungary after 1956, Czechoslovakia after 1968, and Poland after 1956 and 1980-1981 referred to the purging of reformist voices by Soviet and Soviet-aligned forces. The equation of “normalization” with the elimination of dissent underscored the fundamental incommensurability of life under liberal democracy and authoritarian Communism. Jiri Valenta, “Revolutionary Change, Soviet Intervention, and ‘Normalization’ in East-Central Europe,” *Comparative Politics* 16, no. 2 (January 1984), 127-151; Paulina Bren, *The Greengrocer and His TV: The Culture of Communism after the 1968 Prague Spring* (Ithaca: Cornell University Press, 2010).

<sup>25</sup> Mark Allinson, *Politics and Popular Opinion in East Germany, 1945-1968* (Manchester: Manchester University Press, 2000), 2.

<sup>26</sup> Martin Sabrow, “Consensus and Coercion: The Third Reich and the German Democratic Republic in Comparative Perspective,” in *Ten Years of Unification: Transfer, Transformation, Incorporation?*, eds. Jörn Leonhard and Lothar Funk (Birmingham: University of Birmingham Press, 2002), 69-80, here 69-71.

<sup>27</sup> Mary Fulbrook, “The Concept of ‘Normalisation’ and the GDR in Comparative Perspective,” in Fulbrook, ed., *Power and Society in the GDR*, 1-32, here 2-3, 14, 16.

little more than the negation of liberal individualism.”<sup>28</sup> Positing the aspiration for “normality” as a fundamental commonality of selfhood under both liberal democratic and authoritarian auspices is integral to this endeavor.

Fulbrook has also vigorously rejected the insinuation that her espousal of “normalization” as a heuristic for East German historiography stems from a desire to mitigate the SED’s culpability in depriving its citizenry of fundamental rights. But I would argue that her understanding of “normalization” has also been controversial because it presumes a kind of agency on the part of East Germans that co-opts and renders unnecessary Alf Lüdtke’s concept of *Eigen-Sinn*:

One interesting feature to emerge is the way in which many East Germans felt able to articulate their grievances and interests with at least some limited hope of redress or input into future policy. Thus, they were, if only to a limited degree and within certain boundaries (not least the physical boundaries of the East German state itself as a geographical entity), able to “work the system” for their own ends. Many felt simultaneously committed to and critical of the system within which they lived and worked. This highlights the fact that it is not sufficient simply to talk about “*Eigen-Sinn*” in terms of a defence of a person’s “own interests” and the bestowal of his or her “own meanings,” important though such a stance also is in some contexts. The notion of “*Eigen-Sinn*” presupposes still some distance between an individual’s “own” and “society’s” interests and norms. What is interesting—in addition—in the GDR is the as yet insufficiently explored question of the extent of overlap and merging of these two areas. The notion of normalisation allows us to explore the extent to which certain norms were shared, or internalised, to such a degree that the sense of “*Eigen-Sinn*” becomes almost irrelevant.<sup>29</sup>

Far from being “irrelevant,” *Eigen-Sinn* would seem to offer an ideal way to ascertain “the extent of overlap” between individual, collective, and governmental interests. The

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<sup>28</sup> Greg Eghigian, Andreas Killen, and Christine Leuenberger, “Introduction: The Self as Project: Politics and the Human Sciences in the Twentieth Century,” *Osiris* 22, no. 1 (2007), 1-25, here 13-14.

<sup>29</sup> Mary Fulbrook, “The Concept of ‘Normalisation’ and the GDR in Comparative Perspective,” in *Power and Society in the GDR, 1961-1979: The “Normalisation of Rule?”*, ed. Mary Fulbrook (New York: Berghahn, 2009), 1-32, here 25.

very choice to focus on the workings of *Eigen-Sinn* in everyday life emanates from the belief that everyday life had a meaningful existence in the GDR beyond what SED officials hoped or intended it to be. Since the concept of “normalization” prioritizes the internalization of norms over their contestation, does it not presume a considerable degree of “merging” between state, society, and the individual? In other words, is “normalization” simply Sigrid Meuschel’s much debated notion of the “de-differentiation” of state and society in a different guise?<sup>30</sup> Jeannette Madarász rejects this comparison since she believes that the concept of normalization can never encompass the totality of state and society. In her view, the widespread internalization of norms need not be universal to be a meaningful category of historical analysis.<sup>31</sup> But this still begs the question as to why and whether the concept of “normalization” should bear so much analytical weight.

Jan Palmowski, who critiques Fulbrook’s “normalization” model, does not fault Fulbrook for reifying normality as such, since he recognizes that Fulbrook has taken great pains to distance herself from a conception of “normality” as an objective, transhistorical, normative yardstick or form of value judgment. In Palmowski’s estimation, however, Fulbrook’s normalization model is ultimately inadequate because it takes as a given that

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<sup>30</sup> One of the most influential refutations of Meuschel’s characterization of the East German society as “frozen” (*stillgelegt*)—in other words, a uniform entity in which there was little discrepancy between the SED’s ideal vision and social reality—comes from Ralph Jessen, “Die Gesellschaft im Staatssozialismus: Probleme einer Sozialgeschichte der DDR,” *Geschichte und Gesellschaft* 21, no. 1 (1995), 96-110, especially 99-100, 106, 109; see also Pollack, “Modernization and Modernization Blockages,” 28-29. But Jessen does not reject the notion of “de-differentiation” entirely. In place of Meuschel’s notion of a society that merged into the state (*die verstaatlichte Gesellschaft*), Jessen offers his own contention that the state was subsumed under society (*der vergesellschaftete Staat*). In response to Jessen and her other critics, Meuschel insists that she never claimed that the SED’s goal of societal de-differentiation had been fully realized in practice. Thomas Lindenberger, “In den Grenzen der Diktatur: Die DDR als Gegenstand von ‘Gesellschaftsgeschichte,’” in *Bilanz und Perspektiven der DDR-Forschung*, eds. Rainer Eppelmann, Bernd Faulenbach, and Ulrich Mählert (Paderborn: Schöningh, 2003), 239-245, here 240.

<sup>31</sup> Jeannette Madarász, “Economic Politics and Company Culture: The Problem of Routinisation,” in Fulbrook, ed., *Power and Society in the GDR*, 52-75, here 54.

which should be analyzed, namely how and why norms promulgated by the SED came to be accepted as part of “normal” life. It also does not pay sufficient attention to the ways in which these dynamics changed during the course of the GDR’s existence.<sup>32</sup>

If one substitutes “public transcript,” Palmowski’s heuristic of choice, for the “rules of the game,” the term preferred by Fulbrook, then it becomes apparent that *both* Palmowski and Fulbrook assume that the basic tenets of Communism for all aspects of life were unitary, readily intelligible, and easily instrumentalized in daily life, whether out of political conviction, fear of the consequences of non-compliance, resignation, or irony. They have assumed—Palmowski rather explicitly, Fulbrook more implicitly—that the populace internalized or paid obeisance to the “rules” or “public transcript” because “[w]hat stops the dominant from being openly challenged is the appearance that their power is unavoidable. Enlisting the dominated to the public transcript becomes central to the act of domination, because in formally complying, they signal that they expect existing power structures to be there to stay.”<sup>33</sup> A key difference between the two lies in their points of emphasis, with Fulbrook preferring to highlight the “participatory” aspects of “normalization” and Palmowski opting to demonstrate how abiding by the “public transcript” allowed East Germans to avoid the cudgel of “hard power” that underpinned the transcript’s hegemonic pretensions.

Other scholars have considered whether there was a wholesale rejection or assimilation of Communist norms on the part of the East German populace. For Konrad Jarausch, it was “forms of resistance that allowed a degree of normality within the

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<sup>32</sup> Jan Palmowski, *Inventing a Socialist Nation: Heimat and the Politics of Everyday Life in the GDR, 1945-90* (New York: Cambridge University Press, 2009), 312.

<sup>33</sup> Palmowski, *Inventing a Socialist Nation*, 13.

abnormal confines of SED rule.”<sup>34</sup> In this view, it was only in rejecting the “norms” of Communist society that East Germans could hope to attain any semblance of “normality” in their daily lives. In contrast, Sabrow recognizes that the SED “dictatorship could create a form of normalcy that provided its citizens with a specific identity.”<sup>35</sup> In his schema, “normality” was not a one-size-fits-all entity, but instead a matter of perception that the regime could shape to its own advantage.

But even critics and skeptics of the “normalization” paradigm remain beholden to an implicit assumption regarding the underlying comparability of East and West German norms and aspirations—and the possibilities for realizing them in practice. Like Fulbrook, both Sabrow and Jarausch accept as a given that “normality” remained the desideratum to which the East German populace and the SED aspired, presumably in no small part because scholarship on the FRG has revealed a widespread yearning on the part of West German citizens and officials for a “return” to normalcy after the defeat of Nazism. When faced with the vagaries of dictatorial rule of the Nazi or the Communist variety, the presumed-to-be-nonpolitical German was inclined to retreat to her or his garden plot (*Schrebergarten*). And even the more politically aware German pursued the “at once elusive and futile” goal of being “like everyone else, [blending] into Socialist or Western modernity, [and becoming] invisible citizens of a post-national Europe on either side of the Iron Curtain.”<sup>36</sup>

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<sup>34</sup> Konrad H. Jarausch, “Care and Coercion: The GDR as Welfare Dictatorship,” in Jarausch, ed., *Dictatorship as Experience*, 47-69, here 57.

<sup>35</sup> Martin Sabrow, “Dictatorship as Discourse: Cultural Perspectives on SED Legitimacy,” in Jarausch, ed., *Dictatorship as Experience*, 195-212, here 197.

<sup>36</sup> Till van Rahden, “Clumsy Democrats: Moral Passions in the Federal Republic,” *German History* 29, no. 3 (September 2011), 485-504, here 496.

For Richard Bessel, in contrast, “normality” remained an impossible dream for East Germans because of the absence of a “conventional family policy for a private sphere independent of the state.”<sup>37</sup> Bessel assumes that the private sphere disappeared in the GDR and that as a result of this, the SED’s family policy was not “conventional” even if its ultimate aims were. The implication is that a “conventional family policy” was a necessary prerequisite for the attainment of “normality” in East Germany, as Robert Moeller has argued that it was for the nascent FRG.<sup>38</sup> Even if one adopts Madarász’s qualification of “normalization” as not necessarily applying to the East German polity in its entirety, how is it possible to write a history of challenges to “conventional” notions of marriage and sexuality when the very notion of “conventionality” is inextricably linked in the historical imagination with the definition of “normality” advanced by both adherents *and* skeptics of the “normalization” model? If there is no room in the “normalization” paradigm for syncretism or the selective appropriation of norms, and if it styles itself as the primary bulwark against the view of the GDR as a “de-differentiated” amalgam of state and society, is there anything else in the discursive and methodological toolbox of East German historiography that would lend itself to subject matter that defies the logic of “normalization,” conventionality, and uniformity?

Ultimately, the salience of “normalization” has important implications for the fate of the *Sonderweg* paradigm in the writing of post-1945 German history.<sup>39</sup> Historians

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<sup>37</sup> Richard Bessel, “Hatred after War: Emotion and the Postwar History of East Germany,” *History & Memory* 17, nos. 1-2 (Fall 2005), 195-216, here 213.

<sup>38</sup> Robert G. Moeller, *Protecting Motherhood: Women and the Family in the Politics of Postwar West Germany* (Berkeley: University of California Press, 1993).

<sup>39</sup> Katherine Pence and Paul Betts, “Introduction,” in *Socialist Modern: East German Everyday Culture and Politics*, eds. Katherine Pence and Paul Betts (Ann Arbor: University of Michigan Press, 2008), 1-34, here 16-17. For a definitive refutation of the notion that Germany ever pursued a *Sonderweg* (special path) predicated upon a supposedly deficient liberal political culture in the nineteenth century, see David

have uttered a collective sigh of relief that West Germany *finally* learned how to liberate the German nation from the shackles of its *Sonderweg* through political unobtrusiveness, prosperity, and the “normal” lifestyle enabled by that financial well-being. From this perspective, as Germany’s “second dictatorship” of the twentieth century, the GDR represented yet another German failure when it came to the establishment of a modern, liberal polity.<sup>40</sup>

Against this backdrop, one can understand why East Germans might want to claim that despite living in a country that extended the anti-democratic leg of the *Sonderweg*, they too have the right to claim to have led “normal” lives. Fulbrook is right to ensure that their voices do not get lost in a historiography that has been far more attuned to identifying withdrawal from or resistance against the SED and its policies. But epistolary petitions (*Eingaben*) drafted by East Germans reveal not only a yearning for normality, but also pointed challenges to the status quo. *Eingaben* provided a forum for a “whispered dialogue—neither completely suppressed nor genuinely public” that served as a conduit for popular opinion and a means for challenging—and sometimes amending—the SED’s “public transcript.”<sup>41</sup>

### **The Culture of *Eingaben***

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Blackbourn and Geoff Eley, *The Peculiarities of German History: Bourgeois Society and Politics in Nineteenth-Century Germany* (New York: Oxford University Press, 1984). Historians who have embraced the *Sonderweg* concept, such as Jürgen Kocka, Heinrich August Winkler, Kurt Sontheimer, and Wolfgang Mommsen, tend to argue that 1945 marked the end of the *Sonderweg*, at least for West Germany, as noted in George Steinmetz, “German Exceptionalism and the Origins of Nazism: The Career of a Concept,” in *Stalinism and Nazism: Dictatorships in Comparison*, eds. Ian Kershaw and Moshe Lewin (New York: Cambridge University Press, 1997), 251-284, here 274.

<sup>40</sup> Bernd Faulenbach, “Nur eine ‘Fußnote der Weltgeschichte?’: Die DDR im Kontext der Geschichte des 20. Jahrhunderts,” in Eppelmann et al., eds., *Bilanz und Perspektiven der DDR-Forschung*, 1-23, here 4, 7-8.

<sup>41</sup> Harsch, “Society, the State, and Abortion in East Germany,” 56.

Like other state-socialist polities, the GDR dismantled a formalized system of administrative appeal through courtroom adjudication and replaced it with a standing invitation to the populace to submit petitions to protest administrative malfeasance or unfairness and a guarantee that governmental officials would respond to these petitions in a timely fashion. Indeed, this promise was codified in Article 3 of the GDR's 1949 Constitution, elaborated upon in a follow-up directive in 1953, and reiterated in Article 103 of the revised Constitutions of 1968 and 1974. The submission of an *Eingabe* was supposed to catalyze an internal review unfettered by arcane statutes that were intelligible only to a juridically literate elite. From a contemporaneous West German perspective and that of an influential strand of the historiography of the East German legal system, the dismantling of the administrative court system was yet another manifestation of the SED's departure from the rule of law. The system of *Eingaben* put a populist patina on a fundamental abnegation of the commitment to an objective assessment of administrative grievances by impartial judges.<sup>42</sup>

But the desire to make the East German system of jurisprudence “close to the people” (*volksverbunden*) through the petition system also made the barrier of entry to

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<sup>42</sup> Wolfgang Bernet, “Eingaben als Ersatz für Rechte gegen die Verwaltung in der DDR,” in *Die Rechtsordnung der DDR: Anspruch und Wirklichkeit*, ed. Uwe-Jens Heuer (Baden-Baden: Nomos, 1995), 415-426; Oliver Werner, “‘Politisch überzeugend, feinfühlig und vertrauensvoll?’: Eingabenbearbeitung in der SED,” in *Diktaturen in Europa im 20. Jahrhundert: Der Fall DDR*, ed. Heiner Timmermann (Berlin: Duncker & Humblot, 1996), 461-479, here 462. Felix Mühlberg disputes the widespread contention that *Eingaben* were supposed to serve as a replacement for the adjudication of bureaucratic grievances through the administrative court system that the East German government dismantled in 1953; see Felix Mühlberg, *Bürger, Bitten und Behörden: Geschichte der Eingabe in der DDR* (Berlin: Dietz, 2004), 20, 29, 57. Mühlberg also argues that instead of being a carbon copy of the petition systems of the USSR or other parts of the Soviet Bloc, the laws governing *Eingaben* were a “genuine East German product” (*ein originär DDR-deutsches Produkt*) that were drafted in response to the overwhelming popular demand for epistolary petitions as a forum for citizen-state interaction in the immediate aftermath of the Second World War; see Mühlberg, *Bürger, Bitten und Behörden*, 86-88, 275, quotation from 88. I would argue instead that the promulgation of the first *Eingaben* law and abolition of the system of administrative courts did not both happen in 1953 for coincidental reasons alone, and that while the legal provisions for and extensive popularity of *Eingaben* might have been unique to the GDR, the epistolary petition as such was not.

filing a complaint much lower.<sup>43</sup> Rather than having to file a formal suit at a courthouse, an East German could simply sit at her or his desk at home and draft a letter about virtually any subject to the governmental body of her or his choice. As Jan Palmowski argues, “Because of the assumed identity between citizen and state in Socialism, there was no reason why, in principle, citizens should not address the state directly with their concerns.”<sup>44</sup> Indeed, the very indeterminacy of the *Eingabe* enabled it to serve as a vehicle not only for individualized complaints about bureaucratic intransigence, but also for the expression of concerns that were potentially of broader societal significance. Conversely, since the *Eingaben* system did not follow a clear chain of administrative command, even the lowliest complaint could find an audience at the highest echelons of the East German government. Many East Germans directed their missives to President Wilhelm Pieck in the 1950s, for instance, because they trusted him as the “father of the country” (*Landesvater*) who would help petitioners’ interests to prevail against the misguided or parochial actions of lower-level officials.<sup>45</sup> The system proved to be a quite popular one; as Betts points out, “no state in history ever recorded as many citizen

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<sup>43</sup> Betts, *Within Walls*, 174; Werner, “Politisch überzeugend,” 464; Ina Merkel and Felix Mühlberg, “Eingaben und Öffentlichkeit,” in *Wir sind doch nicht die Meckerecke der Nation”: Briefe an das Fernsehen der DDR*, ed. Ina Merkel (Berlin: Schwarzkopf & Schwarzkopf, 2000): 11-46, here 19; Mühlberg, *Bürger, Bitten und Behörden*, 11. In fact, Betts has gone even further by tracing the theoretical justification for the system of *Eingaben* back to Lenin’s call for a move towards citizen self-government—a move that did not, to be sure, take place in the GDR.

<sup>44</sup> Jan Palmowski, “Citizenship, Identity, and Community in the German Democratic Republic,” in *Citizenship and National Identity in Twentieth-Century Germany*, eds. Geoff Eley and Jan Palmowski (Stanford: Stanford University Press, 2008), 73-91, here 81.

<sup>45</sup> Whether consciously or not, *Eingaben* authors relied upon a number of tropes that were not unique to the East German context. For instance, Sheila Fitzpatrick’s catalog of conventions that appeared in nineteenth-century Russian and 1930s Soviet petitions—“[c]onstruing an authority figure as a ‘beloved father,’ appealing for justice (without reference to law), complaining to higher authority about local abuses, writing pathetically of ‘the crust of bread’ that was so often lacking”—is applicable to quite a few epistolary petitions drafted in the GDR as well. Sheila Fitzpatrick, “Suplicants and Citizens: Public Letter-Writing in Soviet Russia in the 1930s,” *Slavic Review* 55, no. 1 (Spring 1996), 78-105, here 92, 81; Betts, *Within Walls*, 183, 188.

complaints as East Germany did.”<sup>46</sup> Between 1960 and 1966, for example, the Council of State (*Staatsrat*) alone received an average of 100,000 *Eingaben* annually.<sup>47</sup> By the time the GDR ceased to exist, estimates posited that roughly half of the adult population had submitted an epistolary petition to the East German government at one time or another.<sup>48</sup>

According to one historiographical perspective, *Eingaben* perpetuated obeisance to the kind of authoritarian state (*Obrigkeitsstaat*) that was a staple of anti-democratic German political culture. From this perspective, the East German system of governance was not something radically new or particularly “socialist,” but instead a reprise of entrenched autocratic habits. Following scholarship by Kenneth Jowitt about the USSR and Andrew Walder about China, Andrew Port identifies “communist neotraditionalism” as a hallmark of SED rule. This neotraditionalism was sustained by multi-layered

“clientelist” relationships [...] in which favors and rewards were selectively distributed in return for loyalty, consent, cooperation, and other desired forms of social, political, and economic behavior. In a throwback to more traditional forms of rule, all of this supposedly helped ensure stability by co-opting privileged

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<sup>46</sup> Betts, *Within Walls*, 175.

<sup>47</sup> Inga Markovits, “Pursuing One’s Rights under Socialism,” *Stanford Law Review* 38, no. 3 (February 1986), 689-761, here 699-700, statistic derived by Markovits from *Neues Deutschland*, December 9, 1966. Other important works on *Eingaben* include Monika Deutz-Schroeder and Jochen Staadt, eds., *Teurer Genosse!: Briefe an Erich Honecker* (Berlin: Transit, 1994); Ulrike Poppe, Rainer Eckert, and Ilko-Sascha Kowalczyk, eds., *Zwischen Selbstbehauptung und Anpassung: Formen des Widerstands und der Opposition in der DDR* (Berlin: Ch. Links Verlag, 1995); Felix Mühlberg, “Konformismus oder Eigensinn?: Eingaben als Quelle zur Erforschung der Alltagsgeschichte der DDR,” *Mitteilungen aus der kulturwissenschaftlichen Forschung* 19, no. 37 (February 1996), 331-345; Alf Lüdtke and Peter Becker, eds., *Akten—Eingaben—Schaufenster: Die DDR und ihre Texte* (Berlin: Akademie Verlag, 1997); Jonathan R. Zatlín, “Eingaben und Ausgaben: Das Petitionsrecht und der Untergang der DDR,” *Zeitschrift für Geschichtswissenschaft* 45, no. 10 (1997), 902-917; Steffen H. Elsner, “Das Eingabewesen als Element der Krisenmanagements in der DDR,” *Zeitschrift des Forschungsverbandes SED-Staat* 8 (2000), 116-125; Paul Betts, “Alltag und Privatheit,” in *Erinnerungsorte der DDR*, ed. Martin Sabrow (Munich: C. H. Beck, 2009), 314-325; Paul Betts, “Die Politik des Privaten: Eingaben in der DDR,” in *Demokratie im Schatten der Gewalt: Geschichten des Privaten im deutschen Nachkrieg*, eds. Daniel Fulda, Dagmar Herzog, Stefan-Ludwig Hoffmann, and Till van Rahden (Göttingen: Wallstein Verlag, 2010).

<sup>48</sup> Mary Fulbrook, *The People’s State: East German Society from Hitler to Honecker* (New Haven: Yale University Press, 2005), 276.

individuals and groups and, more generally, by making those who lived under Soviet-style regimes highly dependent on those in charge for the satisfaction of their everyday material needs.<sup>49</sup>

For Port, *Eingaben* constituted but one pillar of this edifice of clientelism. While it is true that *Eingaben* have a genealogy that predates the introduction of state-socialist forms of governance after the Second World War, it is not entirely clear to me what analytical gains are to be achieved by referring to “more traditional forms of rule.” A political system predicated upon deferential systems of patronage could just as easily be ascribed to “modern” political party machines. And the right to submit petitions was also enshrined in the “modern” democratic German constitutions drafted in 1849 by the National Assembly in Frankfurt and promulgated by the Weimar Republic in 1919.<sup>50</sup> As Mary Fulbrook observes, “[w]hile rooted in this long-term tradition, the character and implications of the practice [of submitting *Eingaben*] inevitably changed in the very different political circumstances of the GDR.”<sup>51</sup> Furthermore, Port’s analysis assumes that the petitioner was necessarily in a subservient position because she or he relied upon political and societal superiors for the satisfaction of basic material needs that were otherwise not being met. As the subsequent chapters will reveal, however, the motivation to submit *Eingaben* did not necessarily stem from materialistic concerns alone.

As Sandrine Kott avers, it was not unusual for *Eingaben* to feature “extensively standardized” language strategically deployed in the hope of eliciting a positive response.

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<sup>49</sup> Andrew I. Port, *Conflict and Stability in the German Democratic Republic* (New York: Cambridge University Press, 2007), 269. Cf. Johannes Huinink, “Individuum und Gesellschaft in der DDR: Theoretische Ausgangspunkte einer Rekonstruktion der DDR-Gesellschaft in den Lebensverläufen ihrer Bürger,” in *Kollektiv und Eigensinn: Lebensverläufe in der DDR und danach*, eds. Johannes Huinink, Karl Ulrich Mayer et al. (Berlin: Akademie-Verlag, 1995), 25-44, here 30; Betts, *Within Walls*, 191.

<sup>50</sup> Betts, *Within Walls*, 176.

<sup>51</sup> Fulbrook, *People’s State*, 271.

For their part, officials often wielded a paternalistic tone as an “efficacious instrument for the depoliticization of public communication.”<sup>52</sup> In other words, they attempted to render a potentially explosive political screed into a far less contentious and more personal matter to be resolved at the discretion of the supplicant’s interlocutor in government. But this was not always the case.<sup>53</sup> While it is not unusual to find obsequious language—such as “In the hope that I have not made an inappropriate request” (*In der Hoffnung, keine Fehlbitte getan zu haben*)—particularly in *Eingaben* from the 1950s, this deferential stance is belied by the surprisingly strident attitude that emerges in many letters, including some that feature this ostensible gesture of humility.<sup>54</sup> Indeed, it was this assertiveness that has led other scholars to view *Eingaben* as aiding and abetting not complaisance, but indeed its opposite—a widespread culture of complaint (*Meckerkultur*) in which petitions served as something akin to a corporate customer service hotline in a capitalist society.<sup>55</sup> Petitioners not infrequently cited political speeches and statutes to demonstrate—whether ironically or sincerely—that they took the party leadership at its word and expected it to abide by its promises, especially when it came to the provision of

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<sup>52</sup> Sandrine Kott, “Entpolitisierung des Politischen: Formen und Grenzen der Kommunikation zwischen Personen in der DDR,” in *Sehnsucht nach Nähe: Interpersonale Kommunikation in Deutschland seit dem 19. Jahrhundert*, ed. Moritz Föllmer (Stuttgart: Franz Steiner Verlag, 2004), 215-228, here 225, 227; Werner, “Politisch überzeugend,” 465; Merkel and Mühlberg, “Eingaben und Öffentlichkeit,” 18.

<sup>53</sup> Merkel and Mühlberg, “Eingaben und Öffentlichkeit,” 20.

<sup>54</sup> Betts, *Within Walls*, 185. I think that Betts overemphasizes the shift from deference in *Eingaben* of the 1950s and 1960s to stridency in *Eingaben* of the 1980s; while the earlier petitions might have featured less cynicism and more hope that citizens’ concerns would be addressed, they also often manifested an assertiveness for which Betts’ neat periodization does not allow. Betts, *Within Walls*, 188-190.

<sup>55</sup> Fulbrook, *People’s State*, 273-275, 281-282; Betts, *Within Walls*, 173, 182; Merkel and Mühlberg, “Eingaben und Öffentlichkeit,” 40-41; Jochen Staadt, “Eingaben: Die institutionalisierte Meckerkultur in der DDR: Goldbrokat, Kaffee-Mix, Büttreden, Ausreiseanträge und andere Schwierigkeiten mit den Untertanen” (Working paper of the Forschungsverband SED-Staat, Freie Universität Berlin, December 1996).

adequate housing.<sup>56</sup> While Mary Fulbrook acknowledges the existence of a *Meckerkultur*, she characterizes the extensive recourse to *Eingaben* as a key vector for engagement between state and citizen in a “participatory dictatorship.”<sup>57</sup>

Jonathan Zatlin synthesizes understandings of the petition system as both “premodern” and “modern” and recognizes that it could serve to invite or inhibit popular participation. But he ultimately subscribes to the notion that by individualizing and privatizing the culture of complaint, *Eingaben* effectively squelched the potential for collective organizing and limited criticism to the misdeeds of individual functionaries rather than of the failings of the political system as a whole.<sup>58</sup> Even the seemingly “democratic” and “participatory” facets of *Eingaben* are for Zatlin another manifestation of their fundamentally anti-democratic character:

[T]he SED used direct-democratic arguments to assert a unity between citizen and state, much as enlightened despots had claimed to rule in the interest of all of their subjects. Because the aims of the Workers’ and Peasants’ State and the interests of its citizens were supposedly identical, legal guarantees aimed at protecting individuals from violations of their rights by the state were unnecessary. Thus, the constitutionally guaranteed right to petition in the GDR was not a form of legal redress. Rather, it was an expression of “codetermination and participation” (*Mitbestimmung und Mitgestaltung*) in the affairs of government.<sup>59</sup>

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<sup>56</sup> Merkel and Mühlberg, “Eingaben und Öffentlichkeit,” 23, 37; Mühlberg, *Bürger, Bitten und Behörden*, 230-231.

<sup>57</sup> Fulbrook, *People’s State*, 171.

<sup>58</sup> Werner, “Politisch überzeugend,” 467-468; Thomas Lindenberger, “Tacit Minimal Consensus: The Always Precarious East German Dictatorship,” in *Popular Opinion in Totalitarian Regimes: Fascism, Nazism, Communism*, ed. Paul Corner (New York: Oxford University Press, 2009), 208-222, here 217; Thomas Lindenberger, “Die Diktatur der Grenzen: Zur Einleitung,” in *Herrschaft und Eigen-Sinn in der Diktatur: Studien zur Gesellschaft der DDR*, ed. Thomas Lindenberger (Cologne: Böhlau, 1999), 13-44, here 32.

<sup>59</sup> Jonathan Zatlin, *The Currency of Socialism: Money and Political Culture in East Germany* (New York: Cambridge University Press, 2007), 288. For Oliver Werner, even though *Eingaben* constituted the “strongest political reflex” for many East Germans, they ultimately served as little more than a surrogate for more substantive participation in governance (*Mitbestimmungssurrogat*); see Werner, “Politisch überzeugend,” 465 drawing upon Christoph Dieckmann, “Mein Osten heißt Heimat,” *Die Zeit* 36 (1995), 3. Betts issues the important reminder that the language of *Mitbestimmung* and *Mitgestaltung* was not explicitly codified in the GDR’s 1949 constitution or the 1953 law regarding *Eingaben*, but instead became

While I do not maintain that *Eingaben* served as a haven of democratic possibility that compensated for the SED's failure to live up to its promises of inclusive governance in other respects, I do not agree with Zatlín's assumption that "codetermination and participation" could only occur on the SED's own terms. Although collective *Eingaben* were relatively rare, collective discussions of individual *Eingaben* were not, and even complaints of a seemingly individualized nature often had broader societal ramifications.<sup>60</sup> According to Ina Merkel and Felix Mühlberg, *Eingaben* enabled East Germans to articulate their feelings of responsibility for and belonging in their society; the airing of collective vexation (*Ärger*) and discontent (*Unzufriedenheit*) could serve as a source of societal consensus-building. And as Fulbrook remarks,

[m]uch of the evidence suggests that, far from being merely cynical and manipulative, East German authorities were very often driven by a genuine desire to improve conditions for ordinary people—not least because such improvements were often tied in with state goals such as improvements in productivity, as well as increased popular support.<sup>61</sup>

Petitioners had to strike a potentially precarious balance between articulating complaints while professing allegiance to and enthusiasm for the task of strengthening socialism, especially since they knew that authorities would try to ascertain the level of "deserving

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part of the rhetoric of popular involvement in governance only with the issuance of the Constitutions of 1968 and 1974; see Betts, *Within Walls*, 175.

<sup>60</sup> Gareth Dale, *Popular Protest in East Germany, 1945-1989* (London: Routledge, 2005), 69 (drawing upon scholarship by Olaf Klenke and Bernd Gehrke); Fulbrook, *People's State*, 286-287; Merkel and Mühlberg, "Eingaben und Öffentlichkeit," 40; Mühlberg, *Bürger, Bitten und Behörden*, 29.

<sup>61</sup> Fulbrook, *People's State*, 274. Jan Palmowski is decidedly more circumspect about the success of the *Eingaben* system in cultivating loyalty to the regime: "petitions could ameliorate individual frustration, but they also could heighten frustration against the state (in the case of unpopular decisions) and against other members of the Socialist community of citizens. Petitions did bring the state closer to the citizens, but whether the citizens were brought closer to the state and to each other remains, in light of current research, at best ambiguous." Palmowski, "Citizenship, Identity, and Community," 83.

customer' they were dealing with" in deciding which grievances were most worthy of resolution.<sup>62</sup> But petitioners' professions of political fealty did not necessarily guarantee a positive response, nor did petitioners always feel the need to demonstrate their allegiance to the socialist project.

The common denominator for the neotraditionalist, *Meckerkultur*, and "modern" participatory dictatorship analytical vantage points is their understanding of *Eingaben* as a safety valve. The petition system allowed for criticism, albeit within strictly enforced limits, and thus ultimately perpetuated SED rule by preempting potentially more effective and communal forms of protest against governmental malfeasance.<sup>63</sup> As Fulbrook argues,

[t]o critique, within this framework, was thus not to criticise in the sense of attack but rather positively to contribute to the improvement of the system. Sufficient numbers of people were satisfied, for the most part either by simply having let off steam and then understood why their request could not be met, or indeed by having achieved some real improvement with respect to their own personal problems, for the practice to be widely supported.<sup>64</sup>

Betts concurs, noting that "letter-writing gave citizens the feeling that they were not really living in a dictatorship, or at least in a qualified sense." *Eingaben* might have been "powerful 'weapons of the weak,'" but they ultimately enabled the ongoing viability of SED rule by mitigating the potential impact of popular discontent.<sup>65</sup> But how could the SED, or any other political actor in the GDR for that matter, regulate the amount of

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<sup>62</sup> Fulbrook, *People's State*, 273; Merkel and Mühlberg, "Eingaben und Öffentlichkeit," 35. By "deserving customer," Fulbrook means "the productive, the politically committed and active, the needy—and best of all, anyone with all these attributes in combination."

<sup>63</sup> Lindenberger, "Diktatur der Grenzen," 32; Merkel and Mühlberg, "Eingaben und Öffentlichkeit," 20; Stadt, "Eingaben."

<sup>64</sup> Fulbrook, *People's State*, 284.

<sup>65</sup> Betts, *Within Walls*, 191.

pressure that the “safety valve” could withstand? Betts opines that by encouraging citizens to focus on concrete, material concerns rather than pleas for the recognition of “abstract civil rights,” the *Eingaben* “system was very effective in channelling dissent into a manageable arena.”<sup>66</sup> This leaves open the question as to how this channeling might have taken place. Betts ultimately ascribes agency to state and citizenry alike in determining the content and limitations of the petition system: “What this complaint system reveals is the extent to which East Germany’s own version of the ‘tyranny of intimacy’ was equally casual and coercive, imposed and self-generating.”<sup>67</sup>

Many historians have addressed the paradox of the GDR’s decades of political quiescence juxtaposed with its quite rapid and cataclysmic collapse. But while the GDR’s four-decade-long stability and ultimate demise are vital historical questions, they are not the *only* or necessarily the *primary* questions that should inform each and every study of East German history. It is for this reason that the issue of the possibilities and limitations of the *Eingabe* as a safety valve for dissent and disgruntlement needs to be revisited.

In assessing the role of petitions in the Stalinist Soviet Union, Sheila Fitzpatrick contends that “for all the qualifications that have to be attached to the term ‘public’ in this context, the writing and reading of these letters to the authorities is as close to a public sphere as one is likely to get during the Stalin period.”<sup>68</sup> Along similar lines, Oliver Werner identifies the East German culture of *Eingaben* as fulfilling a function equivalent to that of a public sphere (*öffentlichkeitsäquivalent*). The petition system, however,

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<sup>66</sup> Betts, *Within Walls*, 181-182.

<sup>67</sup> Betts, *Within Walls*, 191.

<sup>68</sup> Fitzpatrick, “Suplicants and Citizens,” 80; Mühlberg, *Bürger, Bitten und Behörden*, 24.

occupied this role only because there was a vacuum as far as a *real* public sphere was concerned. In other words, he considers *Eingaben* to have been an inferior alternative to what could or should have existed in the GDR and thus dismisses the ways in which they might have constituted a productive catalyst for state-citizen interaction in their own right.<sup>69</sup> While I do not dispute the restrictions placed upon freedom of expression in the GDR, I would also reject the strong undercurrent in Werner's analysis that retroactively condemns any aspects of East German society that failed to live up to an imputed West German norm.<sup>70</sup>

It was not unheard of for an East German to articulate, as Fulbrook points out, “opinions that went beyond the constrained limits of acceptable complaints” and thereby unwittingly bring upon her or himself the unwanted intervention of the *Stasi* or other arms of the state.<sup>71</sup> Also striking is “[t]he sheer honesty and widespread willingness to complain in a state where, on some models, one should be too afraid to want to draw attention to critical views.”<sup>72</sup> This relative openness apparently stemmed from a consensus on the part of East German officials and citizens alike that *Eingaben* should and would serve as a “means of assessing public opinion” (*Prüfstand der öffentlichen Meinung*).<sup>73</sup> The SED tolerated the ongoing existence of the petition system, according to Betts, “since most citizens—so the reports [of the time] concluded—‘preferred to concentrate on their local concerns and private lives rather than risk upsetting a rather

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<sup>69</sup> Werner, “Politisch überzeugend,” 463; Merkel and Mühlberg, “Eingaben und Öffentlichkeit,” 18.

<sup>70</sup> Mühlberg, *Bürger, Bitten und Behörden*, 23.

<sup>71</sup> Fulbrook, *People's State*, 284.

<sup>72</sup> Fulbrook, *People's State*, 287.

<sup>73</sup> Mühlberg, *Bürger, Bitten und Behörden*, 15, invoking an article by Bönninger and Schönraht that appeared in the GDR periodical *Staat und Recht* in 1972; Betts, *Within Walls*, 176.

precariously loaded applecart.”<sup>74</sup> But as Donna Harsch has argued, ““local concerns and private lives”” were quite capable of rendering unstable the ““applecart”” of SED rule.<sup>75</sup>

I argue that it is necessary to consider the role of *Eingaben* beyond the largely consumerist, social welfare, and political frameworks that have dominated other accounts. When it came to marital and sexual matters, *Eingaben* amplified the voices of those who expected better—or at the very least, expected something different—of socialism. As Marti Lybeck observes about an earlier German sociopolitical context, “grievance petitions acted like a mirror exposing the gaps between the legitimating rhetoric and the actual operation of the system.”<sup>76</sup> *Eingaben* could reveal popular disillusionment with the failure of state socialism to live up to the promise of its progressive rhetoric, but they could also challenge the desirability of moving society or the law in a “progressive” direction.<sup>77</sup> While both Merkel and Mühlberg acknowledge that *Eingaben* could be a vehicle for articulating taboo topics such as abortion, scholars have yet to accord sufficient attention to epistolary petitions that focused on sexual and familial themes—and, more specifically, those that challenged rather than reaffirmed prevailing sexual mores.<sup>78</sup>

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<sup>74</sup> Betts, *Within Walls*, 174, 181; a similar point is made by Lindenberger, “Tacit Minimal Consensus,” 217.

<sup>75</sup> Donna Harsch, *Revenge of the Domestic: Women, the Family, and Communism in the German Democratic Republic* (Princeton: Princeton University Press, 2007). In my mind, Harsch unproblematically equates the category of the “domestic” with “women,” but this analytical choice might stem from the fact that the SED’s rhetoric of gender equality was not necessarily matched by changes in attitudes and practices on the part of state officials or ordinary citizens.

<sup>76</sup> Marti Lybeck, “Gender, Sexuality, and Belonging: Female Homosexuality in Germany, 1890-1933” (PhD diss., University of Michigan, Ann Arbor, 2007), 499; Mühlberg, *Bürger, Bitten und Behörden*, 256, 279.

<sup>77</sup> Atina Grossmann, “‘Sich auf ihr Kindchen freuen’: Frauen und Behörden in Auseinandersetzungen um Abtreibungen, Mitte der 1960er Jahren,” in Lüdtke and Becker, eds., *Akten—Eingaben—Schaufenster*, 241-257, here 251-252.

<sup>78</sup> Merkel and Mühlberg, “Eingaben und Öffentlichkeit,” 17.

The process of contesting the policies and moral attitudes that would receive an official imprimatur was not limited to the populace at large. The exigencies of responding to petitions provided opportunities for multivocality within the functionary class itself. In their responses to citizens and during internal deliberations, authorities could make strategic use of “official-speak” to mask denial or even tacit recognition of dissenting opinions within governmental ranks.<sup>79</sup> This marks a departure from prevailing historical assessments of “official-speak” that consider its uses to have been primarily strategic (on the part of petitioners seeking to curry favor with authorities) or didactic (on the part of functionaries seeking to impart lessons about socialism).<sup>80</sup>

Indeed, many *Eingaben* were written by citizens who were not necessarily aligned with the SED’s worldview, and who were not afraid to say as much:

That the vast majority of these formal complaints were written by unaffiliated, disgruntled citizens disclosed a crucial dimension of GDR everyday culture, namely a privatization of politics on the one hand, and a politicization of the private on the other. Indeed, they could—and did—use their personal domestic concerns to criticize the state for not upholding expected standards of privacy, normality, and propriety. Odd as it may seem, the state’s stepped-up monitoring of the private lives of its charges went hand in hand with the people’s usage of these complaints to preserve and assure the existence of a decent private sphere free of undue state interference.<sup>81</sup>

Petitioners could demand the enforcement of existing policies and rectify materialistic gripes, but they could also contribute to the paradoxical constellation of a government that vacillated between the impulse to intervene in the private sphere on the one hand and

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<sup>79</sup> I borrow the term “official-speak” from Fullbrook, *People’s State*, 283.

<sup>80</sup> Patrick Major, “Introduction,” in *The Workers’ and Peasants’ State: Communism and Society in East Germany under Ulbricht, 1945-71*, eds. Patrick Major and Jonathan Osmond (Manchester: Manchester University Press, 2002), 1-19, here 7; Betts, *Within Walls*, 186; Merkel and Mühlberg, “Eingaben und Öffentlichkeit,” 13, 15; Lindenberger, “Tacit Minimal Consensus,” 217.

<sup>81</sup> Betts, *Within Walls*, 191.

to leave it alone on the other. Since *Eingaben* served as a key bridge between the personal and the political, they enabled citizens to negotiate the terms under which this relationship unfolded—sometimes by endorsing conservative mores, but at other times by challenging them.

### **Why Uphold the Public-Private Distinction for the GDR?<sup>82</sup>**

The historiography of the GDR has never quite known what to do with the East German family. This is because of a fundamental ambivalence regarding the extent to which the family demonstrated the palpable or obscured “limits of dictatorship” (*Grenzen der Diktatur*). According to Thomas Lindenberger, the “limits of dictatorship” referred

both to the outer geographical boundary protected against transgression by arms, concrete and barbed wire, and to the multitude of invisible boundaries pervading the body social, producing an inner landscape of relatively isolated units at the bottom of society. The typical political conflict between ordinary GDR citizens and the SED was *not* about political issues and basic tenets of the ideology, but about transgressions of one of these invisible boundaries, e.g., when someone took the ideology literally and tried to act it out on his own, outside the social place accorded to him by the party’s omniscient wisdom.<sup>83</sup>

For Betts and Fulbrook, however, the atomization of the social was not so much a “limit” of dictatorship as an integral part of sustaining it. If a “typical political conflict” was “*not* about political issues,” in Lindenberger’s parlance, then what was it about? He cautions

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<sup>82</sup> As Betts admits, “[s]ome may object that the public-private dichotomy is itself conventional and even obsolete. After all, challenging this dualism has been central to the feminist political struggle from the very beginning, punctuated by ‘the personal is the [*sic*] political’ slogan that served as one of the great feminist rallying cries of 1968 and beyond. But things were different on the other side of the cold war divide, and these terms—despite propaganda to the contrary—lived on in compelling ways in East Germany and elsewhere in Eastern Europe.” Betts, *Within Walls*, 14.

<sup>83</sup> Thomas Lindenberger, “Everyday History: New Approaches to the History of the Post-War Germanies,” in *The Divided Past: Rewriting Post-War German History*, ed. Christoph Kleßmann (New York: Berg, 2001), 43-67, here 56.

against misinterpreting the “limits of dictatorship” framework to mean that there was a dictatorial zone and a dictatorship-free zone in the GDR.<sup>84</sup> But as the above quotation demonstrates, even Lindenberger’s sophisticated understanding of “rule as a social practice” (*Herrschaft als soziale Praxis*) is predicated upon a clear demarcation between the “political” and “apolitical,” albeit without an explication of the difference between the two categories.<sup>85</sup> The implication, then, is that the “political” was within the domain of dictatorship whereas the “apolitical” was outside of it. But it was precisely in this seemingly “apolitical” domain that political mobilization from below could and did take place.<sup>86</sup>

Günter Gaus, who held the inaugural leadership post of the Permanent Delegation of the FRG in the GDR from 1974 to 1981, promulgated the notion of East Germany as a “niche society” (*Nischengesellschaft*).<sup>87</sup> The term prefigured many of the points of contention that would characterize the historiographical debate regarding the relationship between state and society in the GDR, and as such served as an important reference point in that discussion. Lindenberger, for instance, rejects Gaus’ characterization of the GDR as a *Nischengesellschaft* because of its connotation that citizens had to flee for cover in protective niches in order to survive the privation and repression that characterized East German life. But he also maintains that a significant motivation for playing along with the socialist experiment for many otherwise politically uncommitted or indifferent East Germans was the desire to avoid governmental meddling in one’s personal affairs. Lindenberger thus effectively replicates the stark public-private distinction of the

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<sup>84</sup> Lindenberger, “In den Grenzen der Diktatur,” 243.

<sup>85</sup> Lindenberger, “Diktatur der Grenzen,” 20-23.

<sup>86</sup> Harsch, *Revenge of the Domestic*.

<sup>87</sup> Günter Gaus, *Wo Deutschland liegt: Eine Ortsbestimmung* (Hamburg: Hoffmann und Campe, 1983).

*Nischengesellschaft* model and fails to explain how his understanding of the defense of the private sphere against governmental meddling is qualitatively different than the act of “retreating” to a private niche. For both Gaus and Lindenberger, East German citizens struck a deal with the SED when it came to state intervention: “until this point and no further (*bis hierher und nicht weiter*).”<sup>88</sup> The private domain, whether defined as a kind of “niche” or not, was not only a refuge from, but also an unwitting pillar of, the SED’s rule.

Betts traces an elaborate intellectual genealogy for Gaus’ conceptualization of the *Nischengesellschaft* that includes Czeslaw Milosz’s anti-Communist critique of the Eastern Bloc’s “double game of public conformity and private individuality” of the 1950s in *The Captive Mind* as well as works by West German sociologists during the 1960s who pointed to the “‘ventilative’ character’ of the GDR’s private sphere as a ‘protective community’ (*Schutzgemeinschaft*) of family and friends.”<sup>89</sup> He also provides an important reminder that Gaus did not intend the term *Nischengesellschaft* to be a negatively inflected one. Instead, Gaus saw East Germans’ inclination to flourish within niches as a manifestation of their respect for German cultural values and the inviolability of the private sphere that transcended the Cold War divide between the two German polities. From this standpoint, the form that the *Nischengesellschaft* took was a GDR-specific response to the SED’s repressive rule, but the impulse to create a

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<sup>88</sup> Lindenberger, “Diktatur der Grenzen,” 34. While Walter Benjamin proclaimed that “Bolshevism has abolished private life,” numerous scholars argue that Soviet citizens carved out a private, familial domain that they avidly shielded from governmental meddling to the greatest extent possible. Walter Benjamin, “Moscow,” in *Selected Writings*, volume 2: 1927-1934, eds. Michael W. Jennings, Howard Eiland, Gary Smith, and Rodney Livingstone (Cambridge: Belknap Press, 1999), 22-46, here 30; Kent Geiger, “The Soviet Family,” in *American and Soviet Society: A Reader in Comparative Sociology and Perception*, ed. Paul Hollander (Englewood Cliffs, NJ: Prentice-Hall, 1969), 212-216; Deborah Field, *Private Life and Communist Morality in Khrushchev’s Russia* (New York: Peter Lang, 2007), 40, 103.

<sup>89</sup> Betts, *Within Walls*, 10-11.

*Nischengesellschaft* stemmed from the common heritage of the “unpolitical German” that would prevail against any unwarranted forms of intrusion on the part of the state.<sup>90</sup>

Betts could have added another element to his genealogy, namely the prior articulation of something akin to a *Nischengesellschaft* by East German observers. GDR sexual advice manual author Klaus Trummer, for instance, admitted already in 1968 that some young people just pretended to be politically active—they professed political conviction that was notably devoid of sincerity or profundity. They sought refuge from political engagement in “a small, idyllic world of personal happiness,” but according to Trummer, such a retreat was never fully realizable. The key difference between Trummer and Gaus was that the former condemned “unpolitical” inclinations while the latter celebrated them.<sup>91</sup>

Betts offers a number of challenges to the *Nischengesellschaft* framework that resonate with my own analytical objectives. For one thing, he notes that for Gaus, the “exit to niches” in the GDR began in the 1970s “with no explanation as to why or to what extent it related to the GDR’s earlier decades.” For Betts, the most important shifts in the East German private sphere “actually straddle the GDR’s middle two decades.”<sup>92</sup> And while Gaus offers the caveat that “niches are not external [to the socialist system], but rather are niches inside GDR socialism,” his analysis, like Lindenberger’s, proceeds from the assumption that the *Nischengesellschaft* was effectively sealed off from the realm of the political. To refute this, Betts draws upon Mary Fulbrook’s notion of the GDR as a “honeycomb state,” in which

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<sup>90</sup> Betts, *Within Walls*, 10.

<sup>91</sup> Klaus Trummer, ed., *Unter vier Augen gesagt .... Fragen und Antworten über Freundschaft und Liebe*, 3rd ed. (Berlin: Verlag Neues Leben, 1968), 118-119.

<sup>92</sup> Betts, *Within Walls*, 11.

the lines demarcating state and society—or public and private—had been blurred beyond recognition in a “multiplicity of little honeycomb cells of overlapping and intersecting elements in the GDR networks of power and social organization.” Various “limits to dictatorship” did exist, but they were not absolute, and were less at points outside the state’s reach than within the very terrain of politics itself.<sup>93</sup>

Even though Fulbrook rejects the notion of a *Nischengesellschaft* as being predicated upon a conception of the family as an apolitical and ahistorical domain that could offer a haven from the interventionist policies of the SED, her honeycomb metaphor nonetheless reproduces Gaus’ notion of niches, albeit niches that were “sticky” and hence interconnected rather than scattered and isolated.<sup>94</sup> While Fulbrook takes great care to chronicle the multifarious ways in which the SED sought to interpolate itself in private life, she does not explicitly identify what held the honeycomb together other than the presumed internalization and instrumentalization of the SED’s norms by the broader populace—in short, “normalization.” This points to a key distinction between Gaus’ *Nischengesellschaft* and Fulbrook’s “honeycomb state”: whereas the former was based upon East Germans’ rejection of “socialist” norms, the latter was dependent upon GDR citizens’ willingness to assimilate them.

### **The Coalition of Decency and the “Honeycomb” State**

Another form of “honey” that could serve as a palliative for the more astringent forms of socialist ideological “medicine” was what many scholars have identified,

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<sup>93</sup> Betts, *Within Walls*, 13, drawing upon Fulbrook, *People’s State*, 235-249.

<sup>94</sup> Fulbrook, *People’s State*, 17-18, 88, 117.

whether explicitly or not, as a “coalition of decency” (*Koalition des Anstands*).<sup>95</sup> This was, in a sense, “normalization” operating in the opposite direction of what Fulbrook envisions. In other words, if the SED could capitalize upon what it believed it had in common with the majority of the East German populace, then it could strengthen its claim to legitimacy not by promulgating new customs as part of a “normalizing” campaign, but instead by affirming existing ones.<sup>96</sup> According to this logic, if the GDR was indeed a honeycomb state, then it was not held together by the populace’s internalization of Communist norms but instead by the regime’s cooptation of what it believed to be popular mores.

Illustrative of the historiographical consensus regarding this coalition is Verena Zimmermann’s observation that “[t]he mentality of many GDR citizens and especially of party and state functionaries was informed by a petty-bourgeois canon of values and

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<sup>95</sup> I have borrowed the term *Koalition des Anstands* from Marc-Dietrich Ohse, *Jugend nach dem Mauerbau: Anpassung, Protest und Eigensinn (DDR 1961-1974)* (Berlin: Ch. Links Verlag, 2003), 56. Jennifer V. Evans, “Reconstruction Sites: Sexuality, Citizenship, and the Limits of National Belonging in Divided Berlin, 1944-58” (PhD diss., Binghamton University, 2001), 241; Jennifer V. Evans, “The Moral State: Men, Mining, and Masculinity in the Early GDR,” *German History* 23, no. 3 (July 2005), 355-370, here 369; Mark Fenemore, *Sex, Thugs and Rock ‘n Roll: Teenage Rebels in Cold-War East Germany* (New York: Berghahn, 2007), 91, 186-187, 198; Stefan Wolle, *Aufbruch nach Utopia: Alltag und Herrschaft in der DDR 1961-1971* (Berlin: Ch. Links Verlag, 2011), 212; Anna-Sabine Ernst, “The Politics of Culture and the Culture of Everyday Life in the DDR in the 1950s,” in *Between Reform and Revolution: Studies in German Socialism and Communism from 1840 to 1990*, eds. David E. Barclay and Eric D. Weitz (New York: Berghahn, 1998), 489-506, here 499, 502; Lindenberger, “Everyday History,” 54; McLellan, *Love in the Time of Communism*, 7.

<sup>96</sup> Although Germanophone scholars pioneered *Sittengeschichte* (the history of customs), there has been little work done on popular, academic, and governmental understandings of “customs” in the GDR. Some exceptions to this rule include research on East German etiquette manuals as well as the SED’s ultimately unsuccessful attempt beginning in the 1970s to parlay localized *Heimat* (homeland) customs into more robust patriotic enthusiasm for the GDR as a nation. Anna-Sabine Ernst, “Vom ‘Du’ zum ‘Sie’: Die Rezeption der bürgerlichen Anstandsregeln in der DDR der 50er Jahre,” *Mitteilungen aus der kulturwissenschaftlichen Forschung* no. 33 (1993), 190-209; Paul Betts, “Manners, Morality, and Civilization: Reflections on Postwar German Etiquette Books,” in *Histories of the Aftermath: The Legacies of the Second World War in Europe*, eds. Frank Biess and Robert G. Moeller (New York: Berghahn, 2010), 196-214; Palmowski, *Inventing a Socialist Nation*.

habitus.”<sup>97</sup> The irony was that “Red Prussia” was relying upon German “virtues” “that had not really changed all that much since the eighteenth century” to enlist support for the building of socialism.<sup>98</sup> This recourse to a small-minded value system was, in Zimmermann’s estimation, the result of the “unprecedented opportunity for upward social mobility for ‘simple folks’ (*kleine Leute*)” in East Germany.<sup>99</sup> Sven Korzilius has gone so far as to characterize the GDR as a country of “simple people lacking in solidarity” (*entsolidarisierte kleine Leute*) who, in the absence of other forms of social distinction, turned to philistinism (*Spießigkeit*) to prove their superiority over anyone who did not embody its tenets.<sup>100</sup> Korzilius could have acknowledged that asserting respectability was not just a manifestation of working-class or petty-bourgeois status anxiety but also an emulation of a bourgeois strategy to assert moral superiority over a profligate aristocracy and degenerate lower class.<sup>101</sup>

In one sense, the *Koalition des Anstands* was the culmination of longstanding efforts on the part of the working-class movement to “domesticate and hegemonise lower-class identity.”<sup>102</sup> The difference, however, was that the *Koalition des Anstands*

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<sup>97</sup> Verena Zimmermann, *Den neuen Menschen schaffen: Die Umerziehung von schwererziehbaren und straffälligen Jugendlichen in der DDR, 1945-1990* (Cologne: Böhlau, 2004), 16; Fenemore, *Sex, Thugs and Rock ‘n Roll*, 24.

<sup>98</sup> Zimmermann, *Den neuen Menschen schaffen*, 3-4.

<sup>99</sup> Zimmermann, *Den neuen Menschen schaffen*, 17; Huinink, “Individuum und Gesellschaft in der DDR,” 31. In an analogous argument regarding the philistinism and puritanism of Soviet elites, Sheila Fitzpatrick implies that an arriviste new guard sought to defend its potentially still precarious social capital by adopting petty-bourgeois attitudes and mores. Sheila Fitzpatrick, *The Cultural Front: Power and Culture in Revolutionary Russia* (Ithaca: Cornell University Press, 1992).

<sup>100</sup> Sven Korzilius, “Asoziale” und “Parasiten” im Recht der SBZ/DDR: Randgruppen im Sozialismus zwischen Repression und Ausgrenzung (Cologne: Böhlau, 2005), 605.

<sup>101</sup> George L. Mosse, *Nationalism and Sexuality: Middle-Class Morality and Sexual Norms in Modern Europe* (Madison: University of Wisconsin Press, 1985).

<sup>102</sup> Geoff Eley, “Cultural Socialism, the Public Sphere, and the Mass Form: Popular Culture and the Democratic Project, 1900 to 1934,” in *Between Reform and Revolution*, 315-340, here 332-333; Fenemore, *Sex, Thugs and Rock ‘n Roll*, 88, drawing upon Nicholas B. Dirks, Geoff Eley, and Sherry B. Ortner, “Introduction,” in *Culture/Power/History: A Reader in Contemporary Social Theory*, eds. Nicholas B.

was supposed to transcend whatever residual class divisions remained in the GDR. For Betts, the

palpable post-1945 fascination with late nineteenth-century propriety can be read best not as a love affair with the starched world of Wilhelmine class society, but rather as a desperate attempt to go back to the last era of German history when violence and hatred were not the affective bonds of German society, back to a time when civil society as such existed and was taken very seriously.<sup>103</sup>

The SED hoped that expectations regarding propriety could still serve as a unifying factor for East Germany even in the absence of civil society. It was for this reason that Walter Ulbricht promulgated the Ten Commandments of Socialist Morality in 1958, which called upon East Germans to engage in “clean” and “decent” opposite-sex relationships. The *Koalition des Anstands* thus stood “in marked contrast to the disruptive elements of proletarian militancy” of the Weimar-era KPD.<sup>104</sup>

To be sure, there was still a class-based animus directed at the profligacy of the aristocracy and bourgeoisie as well as condemnation of members of a residual *Lumpenproletariat* who refused to engage in dignified (*kulturvoll*) leisure pursuits. Given the purported liquidation of societal stratification in East Germany, however, class divisions held explanatory power only for the bourgeois past or capitalist present in the FRG. For the GDR itself, officials substituted “asociality” for class difference. By the 1960s, they blamed deviant conduct not only on atavistic holdovers from capitalism, but

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Dirks, Geoff Eley, and Sherry B. Ortner (Princeton: Princeton University Press, 1994), 3-45, here 32; Gert Hekma, Harry Oosterhuis, and James Steakley, “Leftist Sexual Politics and Homosexuality: A Historical Overview,” in *Gay Men and the Sexual History of the Political Left*, eds. Gert Hekma, Harry Oosterhuis, and James Steakley (Binghamton, NY: Haworth, 1995), 1-40, here 27.

<sup>103</sup> Paul Betts, “Manners, Morality, and Civilization: Reflections on Postwar German Etiquette Books,” in *Histories of the Aftermath: The Legacies of the Second World War in Europe*, eds. Frank Biess and Robert G. Moeller (New York: Berghahn, 2010), 196-214, here 211.

<sup>104</sup> Eric Weitz, *Creating German Communism, 1890-1990: From Popular Protests to Socialist State* (Princeton: Princeton University Press, 1997), 372.

also on the failings of individuals—as opposed to societal groups or classes—who were not amenable to the ameliorative influence of Communism.<sup>105</sup> The result was an individualization of nonconformism and a collectivization of philistinism.

While I do not dispute the existence of something resembling a *Koalition des Anstands* in the GDR, I believe that like the concept of “normalization,” it obscures the existence of nonconformist opinions and practices. While there is ample evidence regarding the salience of petty-bourgeois sensibilities in the GDR, there is also an archival trail that speaks to widespread ambivalence and uncertainty about the “socialist” moral codex. The *Koalition des Anstands* model is predicated upon the assumption that this moral codex was mutually intelligible to the state and citizenry alike, and that it was a wellspring of consensus-building rather than contestation. But for every instance in which officials commiserated with citizens’ displeasure at raucous dancing or long-haired male youth, there were also ordinary citizens who questioned the SED’s self-assigned role as moral arbiter. In doing so, some East Germans might have had in mind the Weimar-era KPD’s support of progressive sex reform’s challenges to moral absolutism.

### **The Fate of Sex Reform After 1945**

Did the SED dig the grave for the relationship that had existed between the progressive Weimar-era sex reform movement and the KPD, or did elements of this alliance continue to resonate in East German governmental policy and practice? In Atina Grossmann’s estimation, the “motherhood-eugenics consensus” of Weimar-era sex reform became stronger in the postwar Germanies because the more progressive and

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<sup>105</sup> Thomas Lindenberger, *Volkspolizei: Herrschaftspraxis und öffentliche Ordnung im SED-Staat, 1952-1968* (Cologne: Böhlau, 2003), 454.

radical sex reformers who had challenged that consensus died or went into exile because of National Socialist terror. Some exiled sex reformers initially returned to the Soviet Occupation Zone in the hope of reviving this progressive legacy, but many either left once again or became disillusioned. Those who hoped that they could pick up where they left off presumably remembered the period between 1931 and 1933, when the KPD had turned to “‘social issue’-oriented politics such as abortion” in the face of prodigious unemployment.<sup>106</sup> In forming an alliance with opponents of the law proscribing abortion (§ 218) who were not party members, the KPD struggled to balance the goal of organizing women “as a distinct constituency” while attempting to subordinate their political mobilization under the “larger (and more important) class struggle.”<sup>107</sup> As Grossmann astutely observes, “[a]lways leery of women’s separatism and its association with ‘bourgeois’ feminism, the party leadership feared losing control over the strong, broad-based, and potentially autonomous women’s movement that its support of ‘alliance politics’ had helped to create.”<sup>108</sup> Ultimately this fear, and the inhospitable climate for legal reform, made this alliance an untenable one.

The outcome of this attempt at coalition-building necessarily shaped the tenor of postwar sex reform as well. Even those who advocated for reform of § 218 after 1945 did not call for complete decriminalization; instead, they sought a social indication that would allow for abortion in case of maternal hardship even as they trumpeted pronatalist measures. The idea was not so much to repeal § 218 as to “‘make it superfluous,’” even though in the short term the law was liberalized so as to allow German women who had

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<sup>106</sup> Atina Grossmann, *Reforming Sex: The German Movement for Birth Control and Abortion Reform, 1920-1950* (New York: Oxford University Press, 1995), 108, 92-93.

<sup>107</sup> Grossmann, *Reforming Sex*, 109.

<sup>108</sup> Grossmann, *Reforming Sex*, 106.

been raped by Soviet soldiers to terminate their pregnancies.<sup>109</sup> Abortion law reform aimed not at the “bourgeois feminist” goal of ensuring individual autonomy in reproductive decision-making but instead was beholden to biopolitical exigencies. Thus, “[t]he conflict between individual rights and collective welfare that had so bedeviled Weimar sex reformers was decided in favor of the latter,” and slogans such as “Your body belongs to you” that had been part of the early 1930s campaign found no place in the nascent GDR.<sup>110</sup>

Donna Harsch agrees with Grossmann’s pessimistic assessment of the prospects for progressive sex reform after 1945: “The SED elite had no interest in reviving Weimar debates about sexuality, sexual pleasure, and birth control. Leading Communists, especially Ulbricht, aimed for high fertility and were, anyway, prudish. They overruled the reforming urges of some party activists and physicians.”<sup>111</sup> While Timm concurs with Grossmann on this point, she cautions against reifying a distinction between conservative and progressive sex reform before 1933.<sup>112</sup> For Timm, the lack of a clear distinction between progressive and conservative sex reform after 1945 was not just a matter of “personnel discontinuity,” as Grossmann argues, but instead a mirror of conditions that had also obtained in Weimar-era sex reform activism.<sup>113</sup>

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<sup>109</sup> Kirsten Poutrus, “Von den Massenvergewaltigungen zum Mutterschutzgesetz: Abtreibungspolitik und Abtreibungspraxis in Ostdeutschland, 1945-1950,” in *Die Grenzen der Diktatur: Staat und Gesellschaft in der DDR*, eds. Richard Bessel and Ralph Jessen (Göttingen: Vandenhoeck & Ruprecht, 1996), 199-223.

<sup>110</sup> Grossmann, *Reforming Sex*, 196-197, quotation on 197.

<sup>111</sup> Harsch, *Revenge of the Domestic*, 224.

<sup>112</sup> Timm, *Politics of Fertility*, 23, 39-40, 84-87, 117.

<sup>113</sup> Timm, *Politics of Fertility*, 253-255; Edward Ross Dickinson, “Biopolitics, Fascism, Democracy: Some Reflections on Our Discourse about ‘Modernity,’” *Central European History* 37, no. 1 (2004), 1-48, here 29; Mark B. Adams, “Towards a Comparative History of Eugenics,” in *The Wellborn Science: Eugenics in Germany, France, Brazil, and Russia*, ed. Mark B. Adams (New York: Oxford University Press, 1990), 217-232, here 221.

The prudish sensibilities cultivated during the formative years of the SED constituted a form of what Alan Hunt calls “ideological retraditionalism,” that is, the deployment of rhetoric about the forward-looking nature of socialist society to justify “projects to reinstate traditional forms of social relations.”<sup>114</sup> As Blanche Wiesen Cook observes, “[d]espite a brief moment of experimentation that involved communal living and cooperative kitchen and laundry arrangements, Lenin and his successors favored the traditional family, traditionally structured.”<sup>115</sup> From this perspective, the SED’s paeans to progressivism masked a firm commitment to maintaining the status quo when it came to family relations and sexual morality. Or did they?

In the case of the FRG, Dagmar Herzog purports that “[o]vercoming both Nazism *and* its defeat involved the redomestication of sex.”<sup>116</sup> By espousing sexual conservatism, West German religious and governmental authorities sought to put behind them the sexual profligacy that they associated with National Socialism and the occupation period between 1945 and 1949. Herzog goes so far as to say that no regime prior to the Third Reich “had ever so systematically set itself the task of stimulating and validating especially young people’s sexual desires [as long as they were not homosexual

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<sup>114</sup> Alan Hunt, *Governing Morals: A Social History of Moral Regulation* (New York: Cambridge University Press, 1999), 194. In developing the concept of “ideological retraditionalism” to describe Great Britain under Margaret Thatcher during the 1980s, Hunt relies upon Clifford Geertz’s insight that, in Hunt’s words, “conservative moral ideologies are not simply a return to traditionalism.” Hanna Schissler makes a similar point about the contemporaneous assertion of conservative gender roles in the FRG: “It is essential to resist the temptation of reading the gender discourse of the 1950s with its tiring elaborations of women’s ‘true calling,’ the blessings of motherhood, et cetera, only as an attempt to turn back the wheel of history yet one more time.” Hanna Schissler, “‘Normalization’ as Project: Some Thoughts on Gender Relations in West Germany during the 1950s,” in *The Miracle Years: A Cultural History of West Germany, 1949-1968*, ed. Hanna Schissler (Princeton: Princeton University Press, 2011), 359-375, here 364; Sibylle Buske, *Fräulein Mutter und ihr Bastard: Eine Geschichte der Unehelichkeit in Deutschland 1900 bis 1970* (Göttingen: Wallstein, 2004), 203.

<sup>115</sup> Cook, “Feminism, Socialism, and Sexual Freedom,” 373.

<sup>116</sup> Dagmar Herzog, “Desperately Seeking Normality: Sex and Marriage in the Wake of the War,” in *Life after Death: Approaches to a Cultural and Social History of Europe during the 1940s and 1950s*, eds. Richard Bessel and Dirk Schumann (New York: Cambridge University Press, 2003), 161-192, here 189.

or racially ‘undesirable’]—all the while denying precisely that this was what it was doing.”<sup>117</sup> During the 1950s, West German policymakers and religious leaders, in Herzog’s estimation, saw through this dissimulation. But the protesters of 1968 failed to recognize or acknowledge National Socialist sexual permissiveness and instead saw the Third Reich and the immediate postwar era as a period of continuous sexual backwardness and repression:

[B]y 1969, for example, the journalist Hannes Schwenger, in an influential book criticizing the “antisexual” politics of the Christian churches, could specifically identify the postwar churches’ attack on “free love, premarital intercourse, adultery and divorce” as speaking “the language of fascism.” That the Nazis had themselves once vigorously encouraged premarital intercourse, adultery and divorce had become simply unimaginable.<sup>118</sup>

Elizabeth Heineman offers an important qualification of Herzog’s pathbreaking argument, namely that West German stances on sexuality during the 1950s and early

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<sup>117</sup> Dagmar Herzog, *Sex after Fascism: Memory and Morality in Twentieth-Century German* (Princeton: Princeton University Press, 2005), 18.

<sup>118</sup> Dagmar Herzog, “Sexuality, Memory, Morality,” *History & Memory* 17, nos. 1-2 (Fall 2005): 238-266, here 260-261. Mark Fenemore challenges Herzog’s characterization of West German amnesia about Nazi sexual liberality by noting that “[f]ar from having forgotten about ‘the antibourgeois and sexually transgressive aspects of Nazism,’ commentators from across the political spectrum continued to make direct references to them.” Mark Fenemore, “The Recent Historiography of Sexuality in Twentieth-Century Germany,” *The Historical Journal* 52, no. 3 (September 2009), 763-779, here 773. Fenemore also believes that the Nazis’ admonitions against the “non-reproductive search for sexual pleasure” were of far greater consequence than their jettisoning of bourgeois scruples regarding unwed motherhood. Fenemore, “Recent Historiography,” 774-775. Along similar lines, Annette Timm contends that Nazis spoke of (hetero)sexual pleasure not as an end unto itself but as a vehicle for national rejuvenation and the assertion of racial superiority. Annette F. Timm, “Sex with a Purpose: Prostitution, Venereal Disease, and Militarized Masculinity in the Third Reich,” in *Sexuality and German Fascism*, ed. Dagmar Herzog (New York: Berghahn, 2004), 223-255, here 225-227. Herzog anticipated these objections to her interpretation of Nazi sexual politics: “[T]o read Nazis’ paeans to the delights of love as simply tactical embellishment of what was actually a narrowly reproduction-oriented agenda would be to miss the ways Nazi advice-givers inserted themselves into the most elemental desires for personal happiness—how much, in short, Nazism’s appeal lay (in a Foucaultian sense) in the positive rather than negative workings of power—even as the glorification of heterosexual romance provided the context for (and distracting counterpoint to) defenses of some of the most grotesque and violent aspects of Nazi politics.” Dagmar Herzog, “Hubris and Hypocrisy, Incitement and Disavowal: Sexuality and German Fascism,” in Herzog, ed., *Sexuality and German Fascism*, 1-21, here 15.

1960s were not only about distorting the memory of Nazism but also about following broader patterns of conservatism and liberalization of other Western societies at the time. Sexuality as a prism for *Vergangenheitsbewältigung* (dealing with the Nazi past) was the domain of elite and governmental discourse rather than of everyday popular experience.<sup>119</sup>

Herzog astutely observes that “while East Germany entered a period of sexual conservatism in the 1950s and the first half of the 1960s in many respects comparable with the sexual conservatism of West Germany in those years, there were also already in the 1950s notable elements of liberality in the East which had no parallel in West Germany.” It is my contention that the ongoing influence of progressive sex reform—even when governmental officials and professional experts did not explicitly acknowledge it as such—played a significant role in tempering the sexual conservatism that characterized the early years of the Cold War. Otherwise, the “notable elements of liberality” to which Herzog alludes might have been lost in the SED’s propagandistic onslaught against the alleged moral decadence of capitalism.<sup>120</sup>

Herzog’s nuanced view of the interplay between conservative and progressive impulses during the 1950s is largely lost when she turns to the 1970s, when a definitive shift in official attitudes enabled the “romance of socialism” to prevail against prudishness.<sup>121</sup> Her argument about the symbolic valence of sexuality during the later years of the GDR is strikingly resonant with her argument about the liberalization of

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<sup>119</sup> Elizabeth Heineman, *Before Porn Was Legal: The Erotica Empire of Beate Uhse* (Chicago: University of Chicago Press, 2011), 9.

<sup>120</sup> For an exploration of the SED’s condemnation of capitalist moral decadence in popular culture, see Uta Poiger, *Jazz, Rock and Rebels: Cold War Politics and American Culture in a Divided Germany* (Berkeley: University of California Press, 2000).

<sup>121</sup> Herzog, *Sex after Fascism*, 194-195.

(hetero)sexual mores under National Socialist auspices. But even as Herzog scrupulously examines the mutual imbrication of pleasure and evil under Nazism, whereby sexual pleasure was inextricable from the regime's gruesome excesses, she provides no comparable framework for the GDR. Her insistence that both the Nazis and the SED promoted sexual pleasure for its own sake (rather than merely instrumentalizing it in the hope of attaining demographic or other more "pragmatic" policy aims) implicitly posits the celebration of sexual fulfillment as an integral aspect of non-democratic central European governance during the twentieth century. This makes Herzog vulnerable to Josie McLellan's admonition against viewing sexuality as a carefree realm rather than a site of power and privilege, precisely because she does not explain *why* the Nazis and the SED might have liberalized sexual mores, whether their motivations differed, and what the broader implications of this commonality might be.

She also downplays East German sexual conservatism because it does not fit readily into her argument about the role of postwar West German sexual discourse in mediating and obfuscating memories of Nazi atrocities. Indeed, she does not consider whether the articulation of conservative *or* progressive sexual mores played a role in the East German confrontation with Nazi atrocities at all. While it is true that the lack of an unfettered forum for public debate in the GDR did not allow for the same kind of memory discourse that took place in West German civil society during the 1950s, this does not mean that the legacy of National Socialist attitudes towards marriage and sexuality were unquestioningly perpetuated by East German officials and citizens or that they played no role in East German memory construction at all. National Socialist policies and their afterlife did in fact have a role in the *Vergangenheitsbewältigung* of the

GDR, and this was in part because of potentially similar motivations behind the articulation of “conservative” sexual mores on both sides of the German Cold War divide.<sup>122</sup>

Herzog’s contribution is nonetheless an extremely important one, however, since the sex-positive aspects of the East German polity have at times been forgotten or ignored, particularly during the initial phase of the *Wende*.<sup>123</sup> Kurt Starke, a man who would become one of East Germany’s foremost researchers on sexuality during the decade leading up to and following the *Wende*, appears to have suffered from such amnesia:

it is no surprise that the 1950s and at least the first half of the 1960s in East Germany have been remembered by contemporaries as the dark ages of an enforced fixation with conventionality and respectability. [...] According to Starke, “[t]here was in that era “no public discussion about many questions related to sexuality” but rather a “self-disciplining morality, unfriendly to pleasure, chaste ... ascetic or pseudo-ascetic, uptight, interventionist.”<sup>124</sup>

Herzog does not reject Starke’s contention outright, but instead makes the case for a more nuanced view of the sexual climate during this period of East German history:

What needs to be grasped [...] is the double quality of the messages sent about sex in the 1950s and 1960s. There was in numerous texts, in all the sympathy expressed for the inevitability of premarital sex, nonetheless a strongly normative expectation that this sex would be entered into in the context of a relationship heading toward marriage and that ideally sexual relations would not start until “psychological maturity” had been attained.<sup>125</sup>

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<sup>122</sup> Evans, “Reconstruction Sites,” 237; Evans, “Moral State,” 358.

<sup>123</sup> McLellan, *Love in the Time of Communism*, 205.

<sup>124</sup> Dagmar Herzog, “East Germany’s Sexual Evolution,” in Pence and Betts, eds., *Socialist Modern*, 71-95, here 79.

<sup>125</sup> Herzog, “East Germany’s Sexual Evolution,” 75. It is because of the coexistence of exhortations to carnal pleasure and warnings about the need for sexual restraint that McLellan cautions against what she characterizes as a dichotomy between “romance” and “repression” in characterizations of East German

## **Biopolitical (Dis)continuities**

Michel Foucault's notion that the ostensible repression of and secrecy surrounding the discussion of sexuality in modern Europe actually served to mask the expansion of sexual discourse has been very influential for historians of sexuality. His refutation of the repressive hypothesis, however, cannot be understood as a rejection of the notion of repression *in toto*. Instead, Foucault reinscribed repressive tendencies into a larger dynamic that simultaneously perpetuated and undermined the status of the sexual as a secret or taboo.<sup>126</sup> This proliferation was largely the work of experts who found the pursuit of scientific inquiry about sexuality a useful way to lay claim to their share of the public sphere in liberal, bourgeois polities as part of the larger project of constructing welfare states and rhetorics of biopolitical knowledge and practice. Through an examination of the development and propagation of normative and alternative conceptions of sexual morality, my dissertation explores the factors that enabled or inhibited the proliferation of sexual discourse in the GDR.

One of the questions that this dissertation seeks to answer from the vantage point of the East German case is whether there was a necessary correlation between biopolitics, democratic forms of political participation, and the rule of law when it came to conceptions of sexual morality and married life. Biopolitics was a privileged locus for sexual discourse in the GDR given the lack of an organized sex reform movement.

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sexual attitudes. As she aptly notes, “[t]he story of East German sexuality includes both repression and romance.” McLellan, *Love in the Time of Communism*, 214.

<sup>126</sup> I am thankful to Gayle Rubin for reminding me of the nuances in Foucault's engagement with the repressive hypothesis.

Because of the persistent doubts about East Germany's political legitimacy and ongoing demographic viability, biopolitical measures provided a vital tool for renegotiating the relationship between individual bodies, reproductive bodies (*Gattungskörper*), and the national body (*Volkskörper*).<sup>127</sup>

Edward Ross Dickinson argues against a new master narrative of German history that all too easily conflates German biopolitics with totalitarianism and that characterizes biopolitics primarily as a “project of elites and experts” rather than a “complex social and cultural transformation.”<sup>128</sup> In doing so, he echoes Laura Engelstein in challenging the elective affinity between biopolitics and authoritarian polities. She contends that despite the existence of elites who were sympathetic to “Western” ideas, it was very difficult for Foucaultian “regimes of knowledge” to take hold in Russia under a Tsarist regime that was averse to upholding the rule of law. Engelstein identifies an implicit teleology in Foucault's analysis of biopolitics—namely, that its emergence was contingent upon a progression from “absolutism to enlightened despotism to liberalism.”<sup>129</sup> Dickinson sounds very much like Engelstein when he characterizes democracy as uniquely conducive to biopolitical endeavors since “scientific ‘fact’ is democracy's substitute for revealed truth, expertise its substitute for authority. The age of democracy is the age of professionalization.”<sup>130</sup>

Unlike Engelstein, however, Dickinson emphasizes the biopolitical potentialities of both democratic and authoritarian forms of governance. But he ultimately concludes

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<sup>127</sup> Ute Planert, “Der dreifache Körper des Volkes: Sexualität, Biopolitik und die Wissenschaften vom Leben,” *Geschichte und Gesellschaft* 26, no. 4 (2000), 539-576.

<sup>128</sup> Dickinson, “Biopolitics, Fascism, Democracy,” 1, 36.

<sup>129</sup> Healey, *Homosexual Desire in Revolutionary Russia*, 10, drawing upon Laura Engelstein, *The Keys to Happiness: Sex and the Search for Modernity in Fin-de-Siecle Russia* (Ithaca: Cornell University Press, 1992).

<sup>130</sup> Dickinson, “Biopolitics, Fascism, Democracy,” 46.

that democracy was uniquely suited to provide the tools not only for solidifying the hegemony of professional expertise, but also for challenging it through “participatory biopolitics.” He argues that “at the level of interactions with actual persons and social groups, public policy often takes on a life of its own, at least partially independent of the fantasies of technocrats.”<sup>131</sup> Dickinson is thus situating himself within the strand of historiography devoted to questioning the overlap between the pretension to social discipline and its realization.<sup>132</sup> Also influential for his analysis is Konrad Jarausch’s claim that what distinguished the East German “welfare dictatorship” (*Fürsorgediktatur*) from its antecedents before 1933 was the greater level of “individual participation” that was possible under the *Kaiserreich* and during the Weimar Republic.<sup>133</sup> For both Dickinson and Jarausch, biopolitics “from below” was a distinctive feature of participatory democracy that persisted from the imperial period to the Federal Republic despite the triumph of antidemocratic forces under Nazism. This continuity was predicated upon the popular expectation under democratic systems that the welfare state would confer not only entitlements, but also rights.

Dickinson’s model thus posits a stark dichotomy between the “participatory biopolitics” of democracies and the top-down approach of authoritarian biopolitics precisely because “[t]he decisive differences [during different periods of modern German history] are to be found not so much in biopolitical discourse as in issues of institutional

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<sup>131</sup> Dickinson, “Biopolitics, Fascism, Democracy,” 41.

<sup>132</sup> Lutz Raphael, “Die Verwissenschaftlichung des Sozialen als methodische und konzeptionelle Herausforderung für eine Sozialgeschichte des 20. Jahrhunderts,” *Geschichte und Gesellschaft* 22 (1996), 165-193, here 184.

<sup>133</sup> Konrad Jarausch, “Care and Coercion,” 58. For David Crew and Belinda Davis, the ability of ordinary citizens to make claims upon the welfare state and influence the course of policy implementation became particularly pronounced after 1914. See David F. Crew, *Germans on Welfare: From Weimar to Hitler* (New York: Oxford University Press, 1998), 9; Belinda Davis, *Home Fires Burning: Food, Politics, and Everyday Life in World War I Berlin* (Chapel Hill: University of North Carolina Press, 2000).

structure, regime form, and citizenship.”<sup>134</sup> While he acknowledges the importance of the tactical polyvalence of discourse, to borrow a Foucaultian term, in the “microphysics” of power, he urges historians of Germany not to overlook the significance of the role of the state as a guiding force at the macro level.<sup>135</sup> Given the prioritization of governmental form over biopolitical content in his analysis, Dickinson does not quite know what to do with the GDR. At one point, he explicitly equates the biopolitical approaches of the GDR and Nazi Germany because of the authoritarian nature of their political structures. He acknowledges that the Nazi and East German regimes sought to motivate their populace through biopolitical incentives, but he insists that “such mobilization is not necessarily democratic in nature.”<sup>136</sup>

For Daphne Hahn, the Foucaultian understanding of biopolitics holds considerable explanatory power for the GDR because even without “democratic” mobilization, its pronatalist policies moved from largely repressive measures, such as strict limits on the availability of contraception and abortion, to policies that encouraged self-regulation and self-monitoring, such as improved access to birth control, pregnancy termination, and sexual counseling. From her perspective, the distinction between democratic and authoritarian polities is immaterial because East German biopolitics was part of a continuum of modernization that persisted despite the different political orientations of the *Kaiserreich*, Weimar Republic, Third Reich, and state socialism.<sup>137</sup> But her reliance upon a monolithic modernization paradigm leaves unexplained the

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<sup>134</sup> Dickinson, “Biopolitics, Fascism, Democracy,” 34 (quotation), 32, 35.

<sup>135</sup> Dickinson, “Biopolitics, Fascism, Democracy,” 18-19, 36.

<sup>136</sup> Dickinson, “Biopolitics, Fascism, Democracy,” 44.

<sup>137</sup> Daphne Hahn, *Modernisierung und Biopolitik: Sterilisation und Schwangerschaftsabbruch in Deutschland nach 1945* (Frankfurt am Main: Campus Verlag, 2000), 247, 256, 308, 312.

appeal of biopolitical modernization across political caesuras and the ways in which the targets of biopolitical intervention experienced such policies under different regimes.

It is my contention that the GDR is largely absent from Dickinson's reconceptualization of the modern German historical master narrative because it does not fit very well into his dichotomization of democratic versus authoritarian biopolitical regimes. Even though the SED assumed the congruence of governmental, societal, and individual interests, it provided avenues of political participation that enabled ordinary citizens to assert claims upon the state when these interests were discordant. As in democratic polities, participatory biopolitics in the GDR impeded a top-down imposition of unchanging biopolitical imperatives. East Germany and other non-democratic states were far from immune to the unintended consequences and thwarted implementation of policies decreed by centralized authorities. Timm, who like Dickinson emphasizes continuity over discontinuity in biopolitical imperatives before and after 1933 and 1945, acknowledges that "even in a socialist dictatorship, the definition of sexual duties entailed both restrictive government policies and a sensitivity to the desires of the population."<sup>138</sup>

Biopolitics "from below" was alive and well in the GDR in the form of recurrent challenges from both ordinary citizens and professional experts to evolving East German norms regarding marriage and sexuality. Chapters 2 and 3 demonstrate that one such challenge took the form of a psychiatrist's campaign to defend the legitimacy of his "bourgeois" professional expertise as he campaigned to decriminalize homosexuality. In Chapters 4 and 5, I explore the ways in which new regulations for marriage and divorce

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<sup>138</sup> Timm, *Politics of Fertility*, 259.

provoked a flurry of protest from ordinary citizens who rejected the new measures or who tried to instrumentalize them for their own ends. And in Chapter 6, I delve into the intragovernmental disputes regarding the valence of medicine versus ideology in imparting socialist familial norms and sexual morality amidst the proliferation of relationship counseling centers in the GDR during the mid-1960s. A major impetus behind the SED's unflagging devotion to the concept of marital counseling was precisely the desire to harness professional findings in the interest of imparting a "socialist" imprimatur to family life. As in democratic polities, the marshaling of expertise for political ends did not occur without friction or ambivalence. But contrary to Dickinson's characterization of the unique affinity between democracy and scientifically demonstrable facts, by the 1960s there was a strong relationship between SED governance and expert knowledge, even if that knowledge was not infrequently distorted or viewed through rose-colored glasses.

## **Chapter Overview**

There is a dearth of studies of East Germans who did not fit neatly into the categories of perpetrators, resisters, or "apolitical" conformists leading lives punctuated by varying degrees of *Eigen-Sinn*. While nonconformist youth cultures have attracted scholarly attention, iconoclastic individuals in the GDR generally have not. It is for this reason that Chapter 2, entitled "Was Rudolf Klimmer the Magnus Hirschfeld of East Germany? Progressive Sexology after Hitler," is devoted to psychiatrist Rudolf Klimmer (1905-1977) and the reception of his ideas in the East German psychiatric and social hygienic communities during the 1950s. Klimmer asserted his authority as a psychiatric

expert at a time when the SED and its sympathizers in the medical establishment were attacking the very basis of that expertise as a bourgeois relic that needed to be overcome.

Klimmer's efforts to revive the legacy of Magnus Hirschfeld's research on sexuality and advocacy reveal that postwar sex reform did not entirely forsake its progressive strand in favor of unmitigated pronatalist fervor after 1945. But he recognized that the failure of the SED to rebuild the institutional basis for progressive sex reform that had been decimated by the Nazis meant that he would have to cultivate contacts with like-minded individuals in other countries, including contributors to the homophile publication *Der Kreis* and researchers at the Kinsey Institute. He thus demonstrated that the boundary of mid-twentieth-century homophile activism did not end at the Cold War divide. Klimmer's intermittently successful efforts to promulgate his understanding of homosexuality in East German publications reveal the extent to which the Nazi scientific legacy and research on both sides of the Iron Curtain influenced the discourse on homosexuality in the GDR.

While Chapter 2 focuses on the scientific and transnational dimensions of Klimmer's professional activities, Chapter 3, entitled "Neither a Disease nor a Crime? Contesting the Legal Status of Homosexuality in the Early GDR," explores the ramifications of his thinking for the political and jurisprudential realms in the GDR. Josie McLellan maintains that "[h]omosexuality and 'socialist morality' were to prove difficult bedfellows throughout the lifespan of the East German state."<sup>139</sup> The orthodox view was that same-sex sexual conduct, which was little more than yet another instantiation of class-based exploitation and decadence in capitalist societies, would

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<sup>139</sup> McLellan, *Love in the Time of Communism*, 115.

invariably dissipate under the salutary influence of Communism. As this chapter demonstrates, however, there was a remarkable heterogeneity of opinion regarding the stance of socialist morality on precisely this issue.

Long before the 1980s, when the SED begrudgingly tolerated circumscribed public commemorations of the victimization of homosexuals during the Third Reich, Klimmer challenged East German authorities to justify their unwillingness to consider homosexuals to have been victims of Nazism. He was unwilling or unable to deploy a discursive register that would make his case for decriminalizing adult male consensual homosexual acts intelligible to an audience of officials and experts who—at least judging from the SED’s public pronouncements and stated policymaking goals—did not share his belief in the inviolability of a private sexual sphere. But his bricolage of arguments ultimately converged with a consensus—however tenuous and unevenly articulated—on the part of those deliberating Penal Code reform that at least when it came to private, consensual same-sex sexual conduct, the congruence between socialist morality and jurisprudence would no longer apply. In other words, homosexuality needed to be countered with moral censure, but the law was not the best vehicle for these purposes despite the fact that the main purpose of socialist jurisprudence was supposed to be its role in ethical education.

Klimmer’s influence in the process of Penal Code reform went largely unacknowledged. Thus the embers of progressive sex reform could remain viable in the GDR as long as they were invisible. But this does not detract from the fact that even as the SED faced a barrage of criticism from the West for failing to establish a *Rechtsstaat* that would uphold the rule of law and refrain from excessive incursions on the part of the

state in the private sphere, it nonetheless repealed § 175 in 1968. The GDR thereby became a sexual *Rechtsstaat* that explicitly recognized the existence of a private realm that should remain beyond the reach of the law.

This noninterventionist stance did not extend to the codification of East German marital law in the Marriage Ordinance of 1955, which I analyze in Chapter 4, “The Unintended Consequences of Gender Equality: Premarital Sexuality and the Age of Marital Consent in the 1950s.” In *What Difference Does a Husband Make? Women and Marital Status in Nazi and Postwar Germany*, Elizabeth Heineman is intrigued by the fact that, in her conversations with citizens of the former German Democratic Republic (GDR) in the early 1990s, the term “women standing alone” (i.e., women who had lost their husbands during the Second World War and women who could not find husbands due to the gendered demographic imbalance following the war) “did not trigger an association with the postwar period or with a particular generation of women left single by the [Second World W]ar.” Such an association was, by contrast, very common among her West German interlocutors. Heineman attributes this discrepancy at least in part to the fact that “topics that had left mountains of records in West Germany, like the status of unwed mothers and war widows’ pensions, seemed to have been nonissues in the East,” at least as far as available documents seemed to indicate.<sup>140</sup> She later qualifies this statement by saying that the SED sought to transform marital status into a less salient marker of difference as it tried to convince both single and married mothers to seek fulfillment in motherhood, workforce participation, and political activism. The SED’s efforts notwithstanding, “[a]t least through the 1950s, the experiential divide between

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<sup>140</sup> Heineman, *What Difference Does a Husband Make?*, xiv.

married and single women remained firm.”<sup>141</sup> There is in fact quite an elaborate archival paper trail revealing intense contestation of the parameters of normative marital sexuality in the early years of the GDR. While it is true that media outlets in the GDR did not bewail the fate of “women standing alone” in the way that their counterparts in West Germany did, this does not mean that marital status had lost its significance as a marker of social difference for East German women in particular.<sup>142</sup>

Contemporary observers and historians alike have castigated the SED for having failed to live up to its self-proclaimed ideal of gender equality particularly in the domain of familial life. The codification of parity in the age of marital consent for men and women, however, was an important instance in which the SED sought to put the weight of the law behind the promise of equality and found itself confronted with an array of unintended consequences. The Ordinance augmented the age of marital consent for women to eighteen, thereby doing away with the practice whereby adult men could marry female minors who were at least sixteen years of age. This was supposed to be a decisive move in the direction of gender equality, since women could now presumably make informed decisions to embark upon matrimony as fully-fledged adults without being subjected to manipulation on the part of parents and would-be spouses. But the success of this initiative was predicated upon a moral consensus between state and citizenry that simply did not exist. While the law stipulated that the stigmatization of unwed motherhood had been consigned to the historical dustbin, the experience of many East

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<sup>141</sup> Heineman, *What Difference Does a Husband Make?*, 12.

<sup>142</sup> In 1946, there were 7.4 million more women than men in the Allied Occupation Zones in Germany. While this discrepancy diminished with the return of Prisoners of War, it by no means disappeared entirely. Christiane Kuller, *Familienpolitik im föderativen Sozialstaat: Die Formierung eines Politikfeldes in der Bundesrepublik 1949-1975* (Munich: R. Oldenbourg Verlag, 2004), 36.

Germans—especially in rural areas—strongly suggested otherwise. Even as officials sought to downplay the extent of dissatisfaction with this new provision, they could not entirely ignore the entreaties of pregnant underage women who could not understand why the state was preventing them from doing the morally correct thing by getting married. Eventually, popular pressure led to a slight relaxation in the state’s unwillingness to grant exceptions to the age of nubility.

The SED elicited even greater levels of popular incredulity regarding its moral priorities when it also introduced no-fault divorce in the Marriage Ordinance of 1955, which is the subject of Chapter 5, “Making Way for “Winged Eros?” Divorce Law Reform and Marital Infidelity in the 1950s.” Instead of providing couples with an incentive to devise spurious rationales so as to abide by a fixed set of criteria for divorce, the new law exhorted judges to conduct a thorough investigation—with the help of neighbors and socialist collectives—as to whether the extent of discord warranted the dissolution of a marital union. In practice, this meant that adultery no longer constituted automatic grounds for divorce. Aging wives resented a judicial system that seemingly facilitated the desire of their husbands to acquire younger spouses. To add insult to injury, the new law restricted alimony payments in most instances to two years and limited their disbursement to women who, in the estimation of the court, were temporarily unable to secure their own livelihood. Real-existing socialism had done away with the conception of marriage as a source of sustenance (*Versorgungsehe*) in which crass material considerations outweighed the bonds of companionate love. This meant that such husbands could escape both moral censure and financial burdens despite their unconscionable conduct.

Betts has identified the emergence of a sensibility that the “personal is political” in the GDR in the 1960s. But the Marriage Ordinance unwittingly provided an opportunity for East Germans—and in particular East German women—to express this sentiment already in the 1950s. Women’s resentment of the state’s apparent moral agnosticism extended to their skepticism regarding the seemingly arbitrary and parochial administration of justice by judges who could not be counted upon to uphold popular moral standards. As in the case of the age of marital consent, the SED paradoxically provided the impetus for the emergence of a “cultural language” of sex that was not contingent upon an unfettered public sphere or the commercialization of carnality that fostered the salience of such a “cultural language” in the West. Yet courts proved to be remarkably skeptical regarding the efficacy of “societal forces” like neighborhood and workplace collectives in imbuing marital life with a socialist imprimatur. As in the case of legal proscriptions on homosexual conduct and the political valence of relationship counseling, the revision of marriage law forced the SED to confront the limits of socialism’s much vaunted ability to exert an educational influence.

Having recognized that socialist pedagogy regarding the family could not rely upon legal reforms and rhetorical exhortations alone, the SED stipulated the creation of a widespread network of relationship counseling centers in the new Family Law Code of 1965. Whereas the preceding chapters concentrate primarily on the law as a vehicle for contesting sexual mores, Chapter 6, entitled “A Palimpsest of the Weimar Sex Reform Movement? Relationship Counseling During the 1960s,” looks to a different forum for interaction between the state and its citizenry. While the “cultural language” of sex that emerged in response to the Marriage Ordinance of 1955 was largely limited to the realm

of *Eingaben*, the establishment of a widespread network of relationship counseling centers resulted in the proliferation of this “cultural language” in the semi-public domain of the counseling session. What Greg Eghigian calls the “psychologization of the socialist self,” which took root in the SED beginning in the late 1950s, led officials to recognize the advisability of relying upon expert knowledge to ensure the efflorescence of “socialist” familial mores that were apparently not emerging on their own.<sup>143</sup> After having largely ignored the decimation of the institutional basis for progressive sex reform for two decades, the SED was now poised to revive one of the sex reform movement’s signature legacies. Despite the regime’s demographic concerns, pronatalist sentiments were remarkably absent from the discussion of these centers.

But the regime was counting on the eleemosynary inclinations of unpaid counselors and underfunded local government agencies to establish a viable network of counseling and instead found itself confronted with bureaucratic insubordination or indifference. And like the visitors to Weimar-era counseling centers, East Germans wanted to receive counseling on their own terms. Just as East Germans doubted the ability of judges to abide by socialist moral tenets in an impartial fashion, they were reluctant to accord their trust to the vast majority of sexual counseling centers despite assertions by several historians to the contrary. Indeed, the most popular centers were those devoted to the distribution of contraception and sexual counseling. This was ironic given experts’ frequent lamentations regarding the populace’s supposed inability to overcome its prudish inhibitions regarding sexuality. Thus an institution that was supposed to espouse a view of socialist familial life that did not place undue importance

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<sup>143</sup> Greg Eghigian, “The Psychologization of the Socialist Self: East German Forensic Psychology and its Deviants, 1945-1975,” *German History* 22, no. 2 (2004), 181-205.

upon sexuality actually served to reinforce the importance of sexual satisfaction to marital harmony. Since medical experts were much better suited to satisfy the demand for sexual counseling, judicial counselors resented the populace's apparent rejection of socialist ideology as a panacea for problems in the intimate realm. As in the case of the decriminalization of homosexuality, policymakers ultimately conceded—however begrudgingly—that medical expertise was a necessary complement to ideological exhortations and jurisprudential interventions in attaining an evolving ideal of “socialist” familial and sexual life.

A theme that informs each of these chapters is the advisability of moving beyond what Josie McLellan characterizes as the dichotomy between romance and repression that has become entrenched in the historiography of East German sexuality.<sup>144</sup> This bifurcation warrants further elaboration than McLellan provides. If one views the GDR as having been a totalitarian polity in which invidious governmental influence was all-pervasive and rendered East German society a diffident, somber, and undifferentiated mass, then it follows that even the most intimate aspects of private and familial life could not escape the opprobrium of Communist repression. But there is also a different version of the repression paradigm in which the sources of sexual prudishness were multivalent as officials and citizens built a tenuous but nonetheless lasting “coalition of decency” based upon a commonly held zeal for philistinism. Far from alienating the East German populace, the government's deployment of morally repressive measures provided a basis for finding common ground even when consensus regarding more conventionally “political” convictions remained elusive.

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<sup>144</sup> McLellan, *Love in the Time of Communism*, 2-3, 214.

The romance model can also be cast in a way that provides a more or less sympathetic view of East German governance. Particularly from the 1970s onwards, as Herzog demonstrates, publications that received the imprimatur of governmental approval proclaimed that socialism was especially conducive to the attainment of sexual pleasure. During the *Wende*, many West Germans believed that sexual activity offered one of the few forms of diversion from East Germans' humdrum and disconsolate daily lives. One can also bring these two perspectives into harmony with one another by noting that the liberalization of sexual attitudes and behaviors from below increasingly met with approbation from above, Dickinson's doubts about the possibilities for democratic participation in authoritarian biopolitical regimes notwithstanding.

But however much Herzog points to the valorization of sexual fulfillment in the GDR, her qualification of East Germany's trajectory as a sexual "evolution" rather than a "revolution" like that of West Germany reveals that even in the romance paradigm, sexual liberalization under authoritarian conditions had its limits.<sup>145</sup> Although McLellan believes that the emancipationist tendencies in the GDR warrant a revolutionary rather than evolutionary designation, she also qualifies her endorsement of the liberatory tendencies in the evolution of East German sexual mores. More specifically, she contends that everyday experience mattered more than discourse in a polity with severely curtailed opportunities for the public exchange of ideas.<sup>146</sup> This insight certainly has merit, but McLellan does not explain how it relates to the vibrant historiographical debate that took place during the 1990s about the primacy of experience or discourse in

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<sup>145</sup> Herzog, "East Germany's Sexual Evolution."

<sup>146</sup> McLellan, *Love in the Time of Communism*, 9-11.

historical inquiry.<sup>147</sup> Whether in the form of Klimmer's campaign to decriminalize homosexuality, popular discontent regarding new marital consent and divorce provisions, or the public's uneven acceptance of state-run relationship counseling, discursive interventions from below played a decisive role in accelerating or impeding the rate and nature of change in legislative reform, policy implementation, and official rhetoric regarding sexuality.

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<sup>147</sup> Joan Wallach Scott, "The Evidence of Experience," *Critical Inquiry* 17, no. 4 (Summer 1991), 773-797; Kathleen Canning, "Feminist History after the Linguistic Turn: Historicizing Discourse and Experience," *Signs: Journal of Women in Culture and Society* 19 (1994), 368-404.

## CHAPTER 2. WAS RUDOLF KLIMMER THE MAGNUS HIRSCHFELD OF EAST GERMANY? PROGRESSIVE SEXOLOGY AFTER HITLER

For many scholars who have been inspired by the formidable intellectual framework established by Michel Foucault, the ““making of the modern homosexual”” during the nineteenth century entailed the transformation of sexual deviance from a category denoted by acts to a defining characteristic—if not *the* defining characteristic—of personal identity.<sup>1</sup> This was part of a larger process that unfolded during the nineteenth century in which a scientifically informed understanding of sexuality became the linchpin of a new form of “biopower” that affirmed boundaries between the normal and the abnormal by means of moral, medical, and legal criteria. According to one particularly influential strand of Foucault-inspired interpretation, the exercise of biopower was devoted towards the punitive or at the very least judgmental ends of social discipline.<sup>2</sup>

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<sup>1</sup> Michel Foucault, *The History of Sexuality*, volume 1: *An Introduction*, trans. Robert Hurley (New York: Vintage Books, 1990).

<sup>2</sup> Harry Oosterhuis, *Stepchildren of Nature: Krafft-Ebing, Psychiatry, and the Making of Sexual Identity* (Chicago: University of Chicago Press, 2000), 2, 7-8. Other important works on this subject include Sander Gilman, *Difference and Pathology: Stereotypes of Sexuality, Race and Madness* (Ithaca: Cornell University Press, 1985); Ludmilla Jordanova, *Sexual Visions: Images of Gender in Science and Medicine between the Eighteenth and Twentieth Centuries* (Madison: University of Wisconsin Press, 1989); Vernon Rosario, ed., *Science and Homosexualities* (New York: Routledge, 1997); Lucy Bland and Laura Doan, eds., *Sexology in Culture: Labelling Bodies and Desires* (Chicago: University of Chicago Press, 1998); Harry Oosterhuis, “Medical Science and the Modernisation of Sexuality,” in *Sexual Cultures in Europe: National Histories*, volume 1: *National Histories*, eds. Franz Eder, Lesley Hall, and Gert Hekma (Manchester: Manchester University Press, 1999); Frank Mort, *Dangerous Sexualities: Medico-Moral Politics in England since 1850*, 2<sup>nd</sup> ed. (New York: Routledge, 2000); Richard F. Wetzell, *Inventing the Criminal: A History of German Criminology 1880-1945* (Chapel Hill: University of North Carolina Press, 2000); Lesley A. Hall, *Sex, Gender and Social Change in Britain since 1880* (Basingstoke: Palgrave Macmillan, 2000); Janice M. Irvine, *Disorders of Desire: Sexuality and Gender in Modern American*

Even when the wielders of biopower harbored pretensions of social control, however, they did not necessarily succeed in wielding such authority in practice. There are numerous ways in which scholars have questioned the seeming impregnability of the quest for societal uniformity and the stigmatization of deviance. Harry Oosterhuis, for instance, demonstrates how the delineation of homosexual identity was not solely a top-down process. Instead, homosexual research subjects and patients made decisive contributions to the process of defining homosexual identity by divulging their own understanding of their sexual experiences and feelings. Rather than suppressing these viewpoints in the interest of maintaining a patina of dispassionate professional expertise, pioneering sexologists such as Richard von Krafft-Ebing (1840-1902) allowed homosexuals' voices to emerge in their own writings.<sup>3</sup>

Others have challenged the hegemonic pretensions of biopolitical potentialities by shifting their analytical focus away from scientific endeavor in general and sexology in particular. Eve Kosofsky Sedgwick points to the "limitations in thinking of a unitary homosexuality rather than 'overlapping, contradictory, and conflictual definitional forces,'" and David Halperin follows her lead in positing the existence of a genealogy of different kinds of "pre-homosexual" tropes and discourses that predated, influenced, and in some instances coexisted with the "modern" category of homosexuality. George Chauncey, John Howard, Matt Cook, and Matt Houlbrook call into question the timing,

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*Sexology*, rev. ed. (Philadelphia: Temple University Press, 2005); Robert Beachy, "The German Invention of Homosexuality," *The Journal of Modern History* 82, no. 4 (December 2010), 801-838; Naoko Wake, *Private Practices: Harry Stack Sullivan, the Science of Homosexuality, and American Liberalism* (New Brunswick: Rutgers University Press, 2011); Jeffrey Weeks, *Sex, Politics and Society: The Regulation of Sexuality since 1800*, 3<sup>rd</sup> ed. (Harlow: Longman, 2012 [1981]).

<sup>3</sup> Oosterhuis, *Stepchildren of Nature*, 17; Henry L. Minton, *Departing from Deviance: A History of Homosexual Rights and Emancipatory Science in America* (Chicago: University of Chicago Press, 2002), ix-x.

or indeed the very existence, of a shift from behavior to identity in the crystallization of the homosexual by pointing to the uneven unfolding of that subject position in urban and rural Anglo-American historical contexts.<sup>4</sup>

Barry Reay emerges from this historiographical thicket with potentially contradictory injunctions. On the one hand, he argues that “the most useful sexual histories are those that provide depth of context without either assuming sexual identity or anticipating its complete absence; and without forcing taxonomies.” He worries that Halperin’s genealogical heuristic “risks masking the multiplicity of homosexualities [and] the complexity and blurring of acts and identities” that result from such multiplicity. Drawing upon the work of Valerie Traub, Reay instead calls for a history in which fragmentary and dissenting “voices and the histories they articulate [come] together and [fall] apart, like the fractured images of a rotating kaleidoscope.” In doing so, however, he ignores the ways in which the elements of Halperin’s “grand narrative of homosexual making” provide a vital if not exhaustive set of discursive tools for understanding the constitutive fractures of homosexual identity that Reay endeavors to reveal.<sup>5</sup>

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<sup>4</sup> Barry Reay, “Writing the Modern Histories of Homosexual England,” *The Historical Journal* 52, no. 1 (2009), 213-233, here 213-214, 216. Reay’s account draws upon Eve Kosofsky Sedgwick, *Epistemology of the Closet* (Berkeley: University of California Press, 1990); David M. Halperin, *How to Do the History of Homosexuality* (Chicago: University of Chicago Press, 2002); George Chauncey, *Gay New York: Gender, Urban Culture, and the Making of the Gay Male World* (New York: Basic Books, 1994); John Howard, *Men Like That: A Southern Queer History* (Chicago: University of Chicago Press, 1999); Matt Cook, *London and the Culture of Homosexuality, 1885-1914* (New York: Cambridge University Press, 2003); Matt Houlbrook, *Queer London: Perils and Pleasures in the Sexual Metropolis, 1918-1957* (Chicago: University of Chicago Press, 2005).

<sup>5</sup> Reay, “Writing the Modern Histories of Homosexual England,” 216-217, 233; Valerie Traub, “The Present Future of Lesbian Historiography,” in *A Companion to Lesbian, Gay, Bisexual, Transgender and Queer Studies*, eds. George E. Haggerty and Molly McGarry (Oxford: Blackwell: 2007), 124-145, here 138.

Historical narratives about the evolution of biopower in the German Democratic Republic (GDR) and Federal Republic of Germany (FRG) are still very much works in progress. Atina Grossmann was a pioneer in this regard. In discussing the unfavorable climate for progressive German sex reform after 1945, Atina Grossmann maintains that

[t]he Weimar “motherhood-eugenics consensus,” which stressed the importance of fertility regulation and heterosexual intimacy leading to healthy offspring and stable marriages, remained. Lost, however, was the sense that heterosexual satisfaction, family stability, and eugenic health were also tied to abortion and homosexual rights or sex counseling for adolescents.<sup>6</sup>

According to Grossmann, this “sea change in politics and terminology [was] impelled by both the destruction of German sex reform and Stalinist repression.”<sup>7</sup> More recently, scholars have investigated the evolution of biopolitics around the fulcrum of 1945 through the lenses of population politics (*Bevölkerungspolitik*), sterilization, and the remarkably resilient characterization of deviance as “asociality.”<sup>8</sup>

This chapter investigates the extent to which the Nazis’ murderous instrumentalization of biopower and the vagaries of denazification affected the valence of

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<sup>6</sup> Atina Grossmann, *Reforming Sex: The German Movement for Birth Control and Abortion Reform* (New York: Oxford University Press, 1995), 209, 197; Christian Schäfer, “Widernatürliche Unzucht” (§§ 175, 175a, 175b, 182 a.F. StGB): *Reformdiskussion und Gesetzgebung seit 1945* (Berlin: Berliner Wissenschafts-Verlag, 2006), 70. An argument akin to Grossmann’s about the conservative tenor of postwar sex reform, albeit with reference only to homosexual activism, is made by Schäfer, *Widernatürliche Unzucht*, 70 and David S. Churchill, “Transnationalism and Homophile Political Culture in the Postwar Decades,” *GLQ: A Journal of Lesbian and Gay Studies* 15, no. 1 (2009), 31-66, here 31-32.

<sup>7</sup> Grossmann, *Reforming Sex*, 188.

<sup>8</sup> Annette F. Timm, *The Politics of Fertility in Twentieth-Century Berlin* (New York: Cambridge University Press, 2010), 253; Henning Tümmers, *Anerkennungskämpfe: Die Nachgeschichte der nationalsozialistischen Zwangssterilisationen in der Bundesrepublik* (Göttingen: Wallstein, 2011); Stefanie Westermann, *Verschwiegenes Leid: Der Umgang mit den NS-Zwangssterilisationen in der Bundesrepublik Deutschland* (Cologne: Böhlau, 2010); Sven Korzilius, “Asoziale” und “Parasiten” im Recht der SBZ/DDR: *Randgruppen im Sozialismus zwischen Repression und Ausgrenzung* (Cologne: Böhlau, 2005); Matthias Zeng, “Asoziale” in der DDR: *Transformationen einer moralischen Kategorie* (Münster: LIT, 2000). While Timm echoes Grossmann in chronicling the decline of “progressive” sex reform after 1945, she also warns against reifying a clear dichotomy between “progressive” and “reactionary” tendencies in sex reform during the Weimar era.

progressive sexology in the scientific discourse on homosexuality in the GDR. From the time of its emergence in the nineteenth century, sexology “held almost as precarious a position as homosexuality before the law” because of the perceived incommensurability of the scientific study of sexuality with prevailing standards of decency and propriety.<sup>9</sup> In seeking to place sexology on a solid footing after the Second World War, psychiatrist Dr. Rudolf Klimmer (1905-1977) encountered a new set of challenges, since key voices within the Socialist Unity Party (*Sozialistische Einheitspartei Deutschlands*, or SED) were calling into question not just his focus on homosexuality but also the validity of the “bourgeois” psychological sciences more generally.

While I acknowledge the salience of the “motherhood-eugenics consensus” in the postwar era, I contend that National Socialism and Stalinist Communism did not entirely extinguish the flame of “progressive” sex reform. Its embers lived on in the form of individuals like Klimmer, who perpetuated the legacy of prewar sexology and activism against § 175, the law proscribing consensual same-sex sexual acts among men, in a dramatically transformed sociopolitical landscape. His situatedness within a transnational network of scientists and homophile activists influenced the ways in which elements of biopower, and the concept of homosexuality itself, fractured or strengthened as a result of escalating Cold War tensions in the context of the Soviet Occupation Zone (*Sowjetische Besatzungszone*, or SBZ) and nascent GDR. This chapter explores the degree to which Klimmer’s ideas resonated with his scientific colleagues, while Chapter

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<sup>9</sup> Joseph Bristow, “Symonds’s History, Ellis’s Heredity: *Sexual Inversion*,” in *Sexology in Culture*, 79-99, here 95; Lesley A. Hall, “Feminist Reconfigurations of Heterosexuality in the 1920’s,” in *Sexology in Culture*, 135-149, here 136.

3 focuses on the ramifications of Klimmer's activism for the protracted process of East German Penal Code reform.

When Klimmer's aspirations met with increasing opposition during the late 1940s and 1950s, his longstanding if clandestine participation in a transnational homophile network provided him with an emancipatory outlet that transcended the Cold War divide. Through the network of homophile activism, Klimmer could become a "citizen of the world" without leaving East Germany.<sup>10</sup> In her recent study of the International Committee for Sexual Equality (ICSE), the foremost international homophile organization of the 1950s, Leila Rupp argues that

[d]espite its global intentions, the ICSE did not encompass countries outside Europe west of the Iron Curtain and the United States, although correspondence did come in from countries on other continents. [...] Because the ICSE relied on existing homophile groups to affiliate, there was little way to reach beyond the boundaries of the Euroamerican world.<sup>11</sup>

Rupp acknowledges the activism of East Germans devoted to the cause of homosexual emancipation in the GDR.<sup>12</sup> And it is true that the political climate in the GDR was not conducive to the establishment of homophile groups, which precluded East Germans' formal participation in the activities of the ICSE. But transnational homosexual reform activism was not limited to group-level engagement with the ICSE.

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<sup>10</sup> Schwules Archiv und Museum Berlin (hereafter SchA), Klimmer Nachlass (hereafter Klimmer NL), folder: Briefwechsel Dr. Klimmer + Originaltext der Grabrede für Dr. Rudolf Klimmer anlässlich der Urnenbeisetzung in Dresden (hereafter Briefwechsel/Grabrede), letter from Otto Andree, Leipzig, to Jim Steakley, March 19, 1980. Andree had delivered the oration at Klimmer's funeral in 1977.

<sup>11</sup> Leila J. Rupp, "The Persistence of Transnational Organizing: The Case of the Homophile Movement," *American Historical Review* 116, no. 4 (October 2011), 1014-1039, here 1022.

<sup>12</sup> Rupp, "The Persistence of Transnational Organizing," 1022. There was at least one correspondent of unspecified nationality who was based in East Berlin and who submitted articles for publication in an American homophile periodical after 1961. Churchill, "Transnationalism and Homophile Political Culture," 45.

As Klimmer's involvement on an *individual* basis with the homophile periodical *Der Kreis* and the Kinsey Institute demonstrates, transnational homophile and sexological networks did not necessarily stop at the Iron Curtain.

Klimmer made no secret of his aspiration to become the Magnus Hirschfeld (1868-1935) of East Germany.<sup>13</sup> He remembered having “enthusiastically followed [Dr.] Hirschfeld's work until the Nazis came to power and its development was interrupted.” Indeed, he had hoped to work at Hirschfeld's Institute for Sexual Research in Berlin and tried to establish a sexological institute of his own in the GDR.<sup>14</sup> His affinity for Hirschfeld's legacy was not unique, since “[i]n many ways the European and American gay movements after the Second World War took up the cause of Hirschfeld's [Scientific-Humanitarian] Committee: the striving of a minority for equal rights.”<sup>15</sup> But was it even possible for a “Magnus Hirschfeld” to exist in either Germany after the Third Reich?

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<sup>13</sup> Schäfer, *Widernatürliche Unzucht*, 125-126; James D. Steakley, “Gays under Socialism: Male Homosexuality in the German Democratic Republic,” *Body Politic* 29 (December 1976/January 1977), 15-18, here 15; Gudrun von Kowalski, *Homosexualität in der DDR: Ein historischer Abriss* (Marburg: Verlag Arbeiterbewegung und Gesellschaftswissenschaft, 1987), 24, 77; SchA, Klimmer NL, folder: Briefwechsel/Grabrede, letter from Otto Andree, Leipzig, to Jim Steakley, March 19, 1980.

<sup>14</sup> SchA, Klimmer NL, folder: Sonderdrücke von wissenschaftlichen Arbeiten Dr. Klimmer/Diverse Zeitungsartikel über Dr. Rudolf Klimmer (hereafter folder: Sonderdrücke), Thomas Derra, “Sexualforscher in der DDR, Interview mit Dr. Rudolf Klimmer, am 11./12. Dez. 1976,” *Schwuchtel* (Spring 1977), 19-20, here 19. The Institute for Sexual Research, which Hirschfeld founded in 1919, was the first of its kind in the world. Nazis ransacked it on May 6, 1933 and immolated its library. Hirschfeld was out of the country on a lecture tour at the time, and he never returned to Germany after the Nazis took power. He passed away in France on May 14, 1935. For more on Hirschfeld, see Manfred Herzer, *Magnus Hirschfeld: Leben und Werk eines jüdischen, schwulen und sozialistischen Soziologen*, 2<sup>nd</sup> rev. ed. (Hamburg: Männerschwarm Verlag, 2001 [1992]); Elena Mancini, *Magnus Hirschfeld and the Quest for Sexual Freedom: A History of the First International Sexual Freedom Movement* (New York: Palgrave Macmillan, 2010).

<sup>15</sup> Harry Oosterhuis, “Homosexual Emancipation in Germany Before 1933: Two Traditions,” in Harry Oosterhuis and Hubert Kennedy, eds., *Homosexuality and Male Bonding in Pre-Nazi Germany: The Youth Movement, the Gay Movement, and Male Bonding Before Hitler's Rise* (New York: Harrington Park Press, 1991), 1-28, here 8. Hirschfeld co-founded the *Wissenschaftlich-humanitäres Komitee* (Scientific-Humanitarian Committee, or WhK) in 1897.

Klimmer's attempt to establish his own Institute for Sexual Research in 1949 met with the following response:

Before we can express an opinion about your proposal to create an Institute for Sexual Research, we ask that you provide us with more specific details about what you envision its work to entail. I must inform you now that we would under no circumstances agree to a private institute of this sort; only a public institution would be considered.<sup>16</sup>

This did not constitute an outright rejection of Klimmer's request, since a public Institute for Sexual Research would have been preferable to Klimmer than no institute at all. He was thus more than willing to oblige in providing "more specific details":

The importance of founding an Institute for Sexual Research can be summed up succinctly in one sentence. The hardness of a people manifests itself above all in its sexuality. The great political importance of this institute arises from the fact that when the Nazis came to power, they utterly destroyed the institute that had existed in Berlin. Sexuality is a particularly prominent and socially important drive. Above all the social, and not just an individual, sense of personhood is produced in the sexual domain. Sexuality has thus from time immemorial been inescapable and of particular importance.<sup>17</sup>

Klimmer's rhetorical strategy was designed to appeal to the SED's antifascist stance, in that he saw the re-establishment of an institution devoted to sexual research as a way to rectify Nazi injustice. It was, however, also inflected by a eugenic sensibility, in that he appealed to concerns that transcended political affiliation about the "hardness" of the German people. But he was also offering a challenge to the reification of economic determinism in socialist thought when he highlighted the constitutive role of sexuality in

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<sup>16</sup> SchA, Klimmer NL, folder: Schriftwechsel Dienststellen (hereafter DS), Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Stoletzky, Ministerium für Arbeit und Gesundheitswesen (hereafter MfAuG), Berlin, to Rudolf Klimmer, Dresden, December 28, 1949.

<sup>17</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Rudolf Klimmer, Dresden, to Stoletzky, MfAuG, Berlin, February 5, 1950.

shaping the “social” and “individual” “sense of personhood.” Klimmer thereby linked the sexualized body to the body politic and implicitly argued that the sexualized embodiment of social belonging was common to both socialist and capitalist societies.

Klimmer derived inspiration for his planned institute not only from Hirschfeld, but also from American sexologist Alfred Kinsey (1894-1956). Kinsey’s study of the sexual lives of 12,000 Americans did not go unnoticed in the GDR; the East German periodical *Der Nervenarzt (The Neurologist)* reported on his findings in 1949.<sup>18</sup> Klimmer suggested that one of the goals of his institute would be to replicate the expansive scope of Kinsey’s research in East Germany since there was no comparably comprehensive data for the German populace. Klimmer’s plans were nothing if not ambitious:

At first we would hold office hours to help patients deal with all sorts of sexual problems and to collect “cases” for scientific research. In this way, money would flow into the institute. Providing forensic expertise to the courts would also yield money for the institute. It would make sense to require the courts to obtain an expert opinion from the institute in all cases involving sex crimes. In order to build its scientific research capability, it will be necessary to work closely with the local university. The university should be directed to inform the institute of every case of sexological interest. Later, institute staff members will be able to deliver lectures for doctors and jurists at the university. I perceive another field of endeavor in the reform of the Penal Code, to the extent that it occupies itself with sexual matters. Alongside these activities will come the establishment of a scientific library, card index, and archive. Later, when enough resources are available, other divisions can be established. The Institute should be in a position to research all of human sex and love life from a biological, anthropological, ethnological, cultural, medical, and forensic perspective. Special divisions will later work on emotional and neurological sexual suffering, sexual problems of a physiological nature, marital counseling, population policy and eugenic questions, counseling for mother and child, and providing expert opinions in forensic matters involving sexuality. Other areas of research will include sexual hygiene, ethics, and pedagogy. We will supplement these areas of focus by devoting ourselves to sexual pedagogy, the prevention of venereal disease, the anti-prostitution campaign, and the fight against pimps and sexual blackmail. The institute will

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<sup>18</sup> That same year, *Der Nervenarzt* also published Klimmer’s research findings: Rudolf Klimmer, “Ist die Homosexualität psychogenetisch oder anlagebedingt?” *Der Nervenarzt* 20, no. 3 (March 1949), 127-133.

eventually employ psychiatrists, psychoanalysts, gynecologists, venereal disease specialists, hygiene experts, jurists, ethnologists, sociologists, and social workers so as to be able to research these topics in all of their complexity.<sup>19</sup>

Klimmer's professional credentials and political loyalties notwithstanding, his proposed institute never came to fruition because the government's ideological and financial priorities lay elsewhere.<sup>20</sup> Klimmer recognized that "[i]n a society with no need for sexology [...] there was little room for the 'homosexual,'" and he worried that the scientific basis for identifying homosexuals as a discrete sexual minority was threatening to erode despite his best efforts to avert such an outcome.<sup>21</sup> But "the homosexual" had been able to withstand earlier setbacks of a comparable nature. For example, prominent Weimar-era sex reformer Max Hodann's efforts to revive the World League for Sex Reform in the immediate aftermath of the First World War had also met with failure.<sup>22</sup> The efforts of Klimmer's colleagues in the FRG met with greater success. West German sexologist Hans Giese (1920-1970) founded an Institute for Sexual Research in Kronberg im Taunus in 1949, and he joined Hans Bürger-Prinz (1897-1976) in establishing a (West) German Association for Sexual Research in 1950.<sup>23</sup> Unlike Klimmer, however, Giese and Bürger-Prinz took up the mantle of sex reform in part to obfuscate their

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<sup>19</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Rudolf Klimmer, Dresden, to Stoletzky, MfAuG, Berlin, February 5, 1950.

<sup>20</sup> Derra, "Sexualforscher in der DDR," 19; Erik N. Jensen, "The Pink Triangle and Political Consciousness: Gays, Lesbians, and the Memory of Nazi Persecution," *Journal of the History of Sexuality* 11, no. 1/2 (January/April 2002), 319-349, here 323-324; SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from MfAuG, HA Gesundheitswesen, Berlin, to Rudolf Klimmer, Dresden, April 3, 1950. Even the author of this rejection letter, however, was "very interested" in the topic of sexual research; s/he even offered to try to elicit support from her/his colleagues for establishing the kind of institute that Klimmer envisioned by "presenting very clearly its practical value for society by drawing upon the experiences of other countries." S/he did not, however, think to hearken back to Germany's own sex reform legacy.

<sup>21</sup> Dan Healey, *Homosexual Desire in Revolutionary Russia: The Regulation of Sexual and Gender Dissent* (Chicago: University of Chicago Press, 2001), 180.

<sup>22</sup> Grossmann, *Reforming Sex*, 187.

<sup>23</sup> Schäfer, *Widernatürliche Unzucht*, 82 (main text, fn 20, fn 21).

involvement in Nazi-era research on homosexuality and the Nazi Party itself.<sup>24</sup>

Moreover, Giese's Institute for Sexual Research "explicitly rejected identification as a group that advocated homosexual rights."<sup>25</sup>

More than ten years later, Klimmer remained frustrated that the antifascist thrust of SED policy did not extend to support for restoring the progressive sex reform movement that the Nazis had obliterated. But he also acknowledged that the SED leadership was not solely to blame: "Writing about sexual questions is a touchy subject, since many people are still quite backward when it comes to their sexual awareness. Ascetic, sex-negative tendencies originating in early Christendom are still quite prominent today." Just as Kinsey had been able to "demonstrate the large discrepancy between traditional customs and the actual sexual behavior of the populace," Klimmer would seek to do so in the GDR even without the trappings of an Institute for Sexual Research to support his endeavors.<sup>26</sup>

### **The Life and Times of Rudolf Klimmer**

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<sup>24</sup> Andreas Pretzel, "Vorposten im Kampf für die Gleichberechtigung der Homoeroten": *Die Geschichte der Gesellschaft für Reform des Sexualstrafrechts e.V. 1948-1960* (Berlin: Verlag rosa Winkel, 2001); Elizabeth D. Heineman, "The Doubly Unspeakable: Sexuality and Nazism," *Journal of the History of Sexuality* 11, no. 1/2 (2002), 22-66, here 51 [also published in Dagmar Herzog, ed., *Sexuality and German Fascism* (New York: Berghahn, 2004), 22-66]; Peter von Rönn, "Politische und psychiatrische Homosexualitäts-Konstruktion im NS-Staat, Teil I: Die politische Genese des Homosexuellen als Staatsfeind," *Zeitschrift für Sexualforschung* 11, no. 2 (June 1998), 99-129; Peter von Rönn, "Politische und psychiatrische Homosexualitäts-Konstruktion im NS-Staat, Teil II: Die soziale Genese der Homosexualität als defizitäre Heterosexualität," *Zeitschrift für Sexualforschung* 11, no. 3 (September 1998), 220-260; Sophinette Becker, "Bemerkungen zur Debatte über Bürger-Prinz," *Zeitschrift für Sexualforschung* 4, no. 3 (1991), 265-270; Dagmar Herzog, "Desperately Seeking Normality: Sex and Marriage in the Wake of the War," in *Life after Death: Approaches to a Cultural and Social History of Europe during the 1940s and 1950s*, eds. Richard Bessel and Dirk Schumann (New York: Cambridge University Press, 2003), 161-192, here 185; Robert G. Moeller, "Private Acts, Public Anxieties, and the Fight to Decriminalize Male Homosexuality in West Germany," *Feminist Studies* 36, no. 3 (Fall 2010), 528-552, here 540.

<sup>25</sup> Moeller, "Private Acts, Public Anxieties," 546.

<sup>26</sup> SchA, Klimmer NL, folder: Homosexuelle Emanzipationsbewegung DDR in 50er Jahren (hereafter HE-DDR), "Aus der Arbeit einer Ehe- und Sexualberatungsstelle," *Alles für Deine Gesundheit*, no. 2 (1961).

Rudolf Klimmer was born on May 17, 1905 in Dresden. He received his medical training at the Institute of Forensic Medicine at the University of Leipzig, and he completed a dissertation entitled “The Forensic Medical Assessment of Sex Crimes Involving Children” on August 12, 1930 under the direction of Richard Kockel (1865-1934), who had founded the institute in 1900. The dissertation was a study of two men who had been convicted of rape with lethal consequences under section 3 of § 176, which addressed opposite-sex sexual assault.<sup>27</sup>

On January 1, 1931, Klimmer began his tenure as a medical resident at a clinic in the Saxon town of Waldheim, but he returned to the University of Leipzig to work in its neurological clinic on May 2, 1932. That same year, he spent several months as a ship doctor as part of an expedition to western Africa; Klimmer would come to enjoy the itinerant lifestyle afforded by such journeys around the world both during and after the Third Reich.<sup>28</sup> On April 15, 1933, just eight days after the Nazi regime passed the Law for the Restoration of the Professional Civil Service to purge Jews and political opponents from its ranks, his tenure as a medical resident in Leipzig came to an end because of his involvement with the KPD since 1926. He was, in his own words, “repeatedly threatened with internment in a concentration camp” because of his “antifascist stance.” Despite the recurrent prospect of immurement, he was able to complete his training as a psychiatrist at the University of Halle in 1935, after having had a brief stint at a Berlin hospital in 1934 and having served as a ship doctor for the

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<sup>27</sup> Günter Grau, “Ein Leben im Kampf gegen den Paragraphen 175: Zum Wirken des Dresdener Arztes Rudolf Klimmer 1905-1977,” in *100 Jahre Schwulenbewegung: Dokumentation einer Vortragsreihe in der Akademie der Künste*, ed. Manfred Herzer (Berlin: Verlag rosa Winkel, 1998), 46-64, here 53; SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Rudolf Klimmer, Dresden, to Stoletzky, MfAuG, Berlin, February 5, 1950.

<sup>28</sup> Grau, “Ein Leben im Kampf,” 53-54, 63.

Hamburg-America Line from May 1934 until January 1935. Klimmer secured employment as an attending psychiatrist at a clinic in Bielefeld in June 1936 before transferring to a sanatorium in Thüringen on January 15, 1938. His professional responsibilities and political affiliation did not prevent him from being called to serve as a medical orderly during the first three weeks of the Second World War. In 1941, he secured a position in Berlin as a researcher at the pharmaceutical company Schering A.G., which, according to Günter Grau, served as something of a haven for medical professionals who had run afoul of the regime.<sup>29</sup> In 1943, he was declared unfit to serve in the military.<sup>30</sup>

Klimmer's political affiliation, however, was not the only factor that altered the trajectory of his professional development under Nazi rule. Grau maintains that Klimmer was in a sexual relationship with Karl Hausmann during the 1930s, and that he served just over five months in jail in 1938 and a year in prison from 1940 to 1941 for violations of § 175. According to Grau, Klimmer tried to keep his two convictions a secret, both before and after 1945.<sup>31</sup> Since Klimmer was one of the first people to call upon the East German government to recognize gay men as having been victims of National Socialism, it is ironic that he felt obliged to keep his own persecution by the Nazi regime a secret. In this regard, however, one could argue that he was merely following the example of Hirschfeld, who had scrupulously concealed the extent to which his own sexual

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<sup>29</sup> Grau, "Ein Leben im Kampf," 54-56; Derra, "Sexualforscher in der DDR," 19; SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Rudolf Klimmer, Dresden, to Stoletzky, MfAuG, Berlin, February 5, 1950.

<sup>30</sup> Grau, "Ein Leben im Kampf," 57. I am not aware of the rationale for this determination.

<sup>31</sup> Grau, "Ein Leben im Kampf," 55-56. For this reason, the exact circumstances that led to Klimmer's arrests and convictions remain unknown.

inclinations served as a catalyst for his efforts to mitigate the legal and societal opprobrium faced by homosexuals.<sup>32</sup>

While Klimmer claimed that he had not known any gay men who were murdered in Nazi concentration camps, he had been acquainted with many who “tried to avoid the concentration camps by entering into sham marriages,” adding that he was “not sure what later became of these marriages.”<sup>33</sup> Klimmer proved to be just as circumspect about his own attempts to avoid Nazi persecution as he was about the persecution itself. On August 28, 1943, he married Martha Brumecki, who was purportedly a lesbian, and thereby defied his own subsequent warnings about the inadvisability of nuptials for gay men. They divorced in 1948 for what he characterized as “political reasons.” Although Klimmer and Brumecki had been united in their opposition to Hitler during the Third Reich, she did not want to leave Frankfurt am Main to join Klimmer in the SBZ once the war had ended. This was not least because she supposedly could not reconcile herself with Klimmer’s SED membership and “Communist mindset”—even though this “mindset” had already been two decades in the making.<sup>34</sup>

No longer encumbered by the threat of persecution at the hands of the Nazis, Klimmer left Berlin to establish a psychiatric practice in Dresden during the summer of 1945.<sup>35</sup> He also made use of his training in forensic medicine to serve as an expert witness in trials involving alleged perpetrators of sexual offenses.<sup>36</sup> In the late 1940s, he

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<sup>32</sup> I am grateful to Helmut Puff for reminding me of this commonality between Hirschfeld and Klimmer.

<sup>33</sup> Derra, “Sexualforscher in der DDR,” 19. It is worth noting that Klimmer made these disclosures in a lay periodical that targeted a West German gay male audience in the 1970s.

<sup>34</sup> Grau, “Ein Leben im Kampf,” 57-58.

<sup>35</sup> Grau, “Ein Leben im Kampf,” 47.

<sup>36</sup> Grau, “Ein Leben im Kampf,” 62; SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Rudolf Klimmer, Dresden, to Stoletzky, MfAuG, Berlin, February 5, 1950; Derra, “Sexualforscher in der DDR,” 19.

assumed the role of lead doctor at the neurological department of a polyclinic in Dresden-Löbtau, where he established one of the first marital and sexual counseling centers in what would become the GDR. In the wake of the call for the establishment of a dense network of marital and family counseling centers (EFBs) in the 1965 Family Law Code, he joined forces in 1966 with a judge and a teacher to establish an EFB in Dresden-Freital, even though his participation in this counseling collective elicited surprise from at least one state official.<sup>37</sup>

After the dissolution of his marriage, Klimmer lived with his mother until her death in 1954, at which point he applied to serve as a doctor for the GDR's fleet of trade ships. He was informed on August 9, 1954 that he would have to wait until late 1955 to assume a position as ship doctor, but that when he did, it would be a lifetime appointment. As Klimmer noted in his diary in 1957, “[b]efore the time of my departure arrived, my life changed fundamentally once again. I find myself no longer alone, and thus have obtained a leave of absence for just one year.”<sup>38</sup> In the interim, Klimmer had met Armin Schreier, who would become his life partner. Thus the very thing that might have prompted Klimmer to leave the GDR for a country with less stringent legal regulations—namely, his desire to cultivate sexual and romantic relationships with men—was one of the factors that convinced Klimmer to remain in East Germany.

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<sup>37</sup> It was perhaps an official at the Ministry of Justice who underlined Klimmer's name and job title and wrote an “!” in the margin while reading a letter from the Freital District Court about the new EFB in Dresden-Freital; see BArch Berlin-Lichterfelde, DP1 VA 1756—Dresden subsection, letter from Bernhardt, Direktor des Kreisgerichts Freital, to MdJ, Berlin, October 21, 1966, unpaginated archival file. For more on sexual and relationship counseling in the GDR, see Chapter 6.

<sup>38</sup> Grau, “Ein Leben im Kampf,” 63.

Despite the longevity of their relationship, Klimmer sought to shield his sexual orientation from the broader public by referring to Schreier as his stepson.<sup>39</sup>

In 1977, Klimmer took advantage of a 1964 provision that permitted elderly East Germans to visit relatives in the FRG. He went to Wuppertal for this reason and was planning on fulfilling a lifelong dream by traveling to Iceland thereafter. This dream remained unrealized, however, since he had a heart attack en route in Hannover and succumbed to a second heart attack in Wuppertal on July 26, 1977. Even though he passed away in the FRG, Klimmer had remained in the GDR not least because of his longstanding Communist sympathies and his fervent desire to see the Communist project live up to its humanist ideals when it came to the societal and legal status of homosexual men.

### **The Psychological Sciences in the SBZ and Early GDR**

In many respects, denazification was more comprehensive in the SBZ than in the western zones of occupation.<sup>40</sup> But in the medical realm, denazification in what would become the GDR warranted far less propagandistic bombast on the part of Soviet and East German officials alike. Mary Fulbrook has noted that

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<sup>39</sup> Grau, "Ein Leben im Kampf," 60, 63. Numerous authors claim that Klimmer was a closeted gay man, including Schäfer, *Widernatürliche Unzucht*, 125, fn 260; Steakley, "Gays under Socialism," 15; Kowalski, *Homosexualität in der DDR*, 23, 25; Grau, "Ein Leben im Kampf," 56. The sources that I consulted in Klimmer's *Nachlass* include an undated diary entry from one of Klimmer's excursions as a ship doctor in which he made a euphemistic reference to Schreier as well as an album of homoerotically tinged photographs that Klimmer took of young southeast Asian men during another stint overseas. The basis for the assertions regarding Klimmer's sexual orientation may lie in materials that I did not view, such as a 1952 *Stasi* report: Klimmer's "circle of acquaintance consists of well-dressed men," but while "there is a rumor in his neighborhood that he is disposed towards homosexuality (*homosexuell veranlagt*), this allegation could not be confirmed by anyone." Grau, "Ein Leben im Kampf," 60-61.

<sup>40</sup> Timothy Vogt, *Denazification in Soviet-occupied Germany: Brandenburg, 1945-1948* (Cambridge, MA: Harvard University Press, 2000), 2.

[b]y 1949, fewer than 15 per cent of the medical profession had irrevocably lost their positions as a result of denazification measures. [...] [T]he vast majority of the medical profession in the Soviet zone and early years of the GDR were individuals who had been actively involved in sustaining the Nazi “racial state.”<sup>41</sup>

The limits of denazification were also apparent in the medical specialty of psychiatry. As Greg Eghigian has noted,

One government estimate in 1947 indicated that 48 percent of all psychiatrists and neurologists in the Soviet-Occupied Zone had been members of the Nazi Party. By June 1947, only around 15 percent had joined the Communist Party. This discrepancy was the source of what proved to be a chronic distrust of East German psychiatrists on the part of the ruling SED.<sup>42</sup>

Even though Klimmer’s longtime involvement in Communist politics would have absolved him of immediate suspicion regarding his political sympathies, he was seeking to assert the validity of his expertise as a psychiatrist during the early years of the GDR in a professional environment that questioned the very status of that expertise on ideological grounds.<sup>43</sup> As Michael Clark and Catherine Crawford observe, “[e]xpertise is not entirely relative, but its multiple historical meanings can only be grasped if expertise itself is

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<sup>41</sup> Mary Fulbrook, *The People’s State: East German Society from Hitler to Honecker* (New Haven and London: Yale University Press, 2005), 203. See also Sigrid Oehler-Klein and Volker Roelcke, eds., *Vergangenheitspolitik in der universitären Medizin nach 1945: Institutionelle und individuelle Strategien im Umgang mit dem Nationalsozialismus* (Stuttgart: Franz Steiner Verlag, 2007).

<sup>42</sup> Greg Eghigian, “Was There a Communist Psychiatry? Politics and East German Psychiatric Care, 1945-1989,” *Harvard Review of Psychiatry* 10, no. 6 (2002), 364-368, here 365. Given the trauma experienced by many Germans during the immediate postwar period, the demand for psychotherapeutic services in the four zones of occupation was high, and the need for qualified personnel to meet this demand provided another disincentive for more thorough denazification.

<sup>43</sup> Greg Eghigian, “The Psychologization of the Socialist Self: East German Forensic Psychology and its Deviants, 1945-1975,” *German History* 22, no. 2 (2004), 181-205, here 184, 186. Practitioners of such disciplines as pedagogy, social work, and economics contested the efficacy and legitimacy of psychological expertise during the first two decades of West Germany’s existence as well, albeit for very different reasons. Alexandre Métraux, “Der Methodenstreit und die Amerikanisierung der Psychologie in der Bundesrepublik 1950-1970,” in *Geschichte der deutschen Psychologie im 20. Jahrhundert*, eds. Mitchell G. Ash and Ulfried Geuter (Opladen: Westdeutscher Verlag, 1985), 225-251, here 244-245.

made the object of historical enquiry, rather than being treated as an absolute standard by which to judge the shortcomings and achievements of the past.”<sup>44</sup> Gudrun von Kowalski postulates that nonnormative sexuality retained the stigma of pathology in the GDR precisely because of the incomplete denazification of the East German medical profession. But as she also notes, even when the historical-materialist social scientific study of sexuality supplemented the medical model in the GDR during the 1960s, the status of homosexuality as a form of “deviance” (*Abartigkeit*) remained.<sup>45</sup> Historical-materialist analysis predicted the demise of nonnormative sexuality and thus was quite compatible with a view of deviance as a disease that could afflict the social body just as much as individual bodies.

However limited in reach the denazification of the medical profession might have been, it is important to bear in mind that ideologically conformist doctors coexisted with colleagues who professed a devotion to “apolitical humanism” in East Germany.<sup>46</sup> For Anna-Sabine Ernst, “apolitical humanism” was a manifestation of the belief that the objectivity of scientific endeavor placed it above politics, whether of the National Socialist or Communist variety. Klimmer invoked humanism as well, albeit not as a cloak for unwelcome political affinities. Instead, he drew upon a decidedly *politicized* humanism that sought to reconcile universalist rights-based claims with the particularities

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<sup>44</sup> Catherine Crawford and Michael Clark, “Introduction,” in *Legal Medicine in History*, eds. Catherine Crawford and Michael Clark (New York: Cambridge University Press, 1994), 9-10.

<sup>45</sup> Kowalski, *Homosexualität in der DDR*, 20, 30-32.

<sup>46</sup> Anna-Sabine Ernst, “Die beste Prophylaxe ist der Sozialismus”: *Ärzte und medizinische Hochschullehrer in der SBZ/DDR, 1945-1961* (Münster, New York, Munich, and Berlin: Waxmann, 1997), 267, 275-276. See also Kristie Macrakis and Dieter Hoffmann, eds., *Science under Socialism: East Germany in Comparative Perspective* (Cambridge: Harvard University Press, 1999).

of socialist and capitalist jurisprudence, and he viewed science as the most suitable, albeit imperfect, vehicle for attaining this reconciliation.<sup>47</sup>

Since many leading practitioners of both East and West German psychotherapy had trained or worked at the German Institute for Psychological Research and Psychotherapy (commonly known as the Göring Institute), the Institute's practices continued to be influential.<sup>48</sup> Klimmer exhorted his colleagues to confront the unacknowledged legacy of Nazi-era thought for their own professional opinion regarding the status and etiology of homosexuality. As Dagmar Herzog observes,

one remarkably understudied aspect of Nazi attitudes about homosexuality is the conviction articulated that homosexuality was very much a possibility lurking within the majority of men, and even a phase that many men literally went through. This perspective, which could have been used for antihomophobic purposes, instead was—quite self-reflexively—deployed to fuel the regime's punitive homophobic radicalism.<sup>49</sup>

In other words, while Nazi researchers invested a lot of effort in determining the congenital roots of non-Aryan inferiority, they refuted the primacy of biological determinism when it came to homosexuality because of the perceived need to reject the “Jewish” scientific legacy of Magnus Hirschfeld and his distinction between homosexuality as conduct and homosexuality as identity. Hirschfeld had deployed the

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<sup>47</sup> For a discussion on this subject for an earlier era of Soviet history, see Daniel Beer, *Renovating Russia: The Human Sciences and the Fate of Liberal Modernity, 1880-1930* (Ithaca: Cornell University Press, 2008).

<sup>48</sup> Geoffrey Cocks, *Psychotherapy in the Third Reich: The Göring Institute*, 2<sup>nd</sup> ed. (New Brunswick, NJ: Transaction Publishers, 1997 [1985]), 374; Frank Biess, *Homecomings: Returning POWs and the Legacies of Defeat in Postwar Germany* (Princeton: Princeton University Press, 2006), 84. The Göring Institute supplanted the German Psychoanalytic Institute as part of National Socialist coordination, or *Gleichschaltung*, in May 1935.

<sup>49</sup> Dagmar Herzog, “Hubris and Hypocrisy, Incitement and Disavowal: Sexuality and German Fascism,” in *Sexuality and German Fascism*, ed. Dagmar Herzog (New York: Berghahn, 2005) [originally published as a special issue of the *Journal of the History of Sexuality*, 11.1/2 (2002)], 1-21, here 20, fn 57.

logic of congenital determinism, after all, to make the case for the status of homosexuals as a biologically distinct minority. The Nazis, by contrast, emphasized the role of social construction, as exemplified most vividly by the threat of “seduction,” in the “creation” and “curing” of homosexuals, and this thinking proved to be remarkably resilient after 1945.<sup>50</sup> As Frank Biess has noted, this resilience stemmed in no small part from fears regarding the sexual proclivities of returning POWs, who had presumably become accustomed to masturbation and homosexual conduct after their prolonged exposure to all-male environments.<sup>51</sup>

Ironically, in their attempt to jettison Hirschfeldian thinking, Göring Institute researchers reproduced some of its basic tenets. In order to support the contention that “there is no stark either-or, no incurable fateful naturalness” when it came to homosexuality, at least some of these scientists instead embraced the notion of “transitional stages and in-between forms” that could account for the “appeal” of same-sex sexual acts to an expansive cross-section of the population.<sup>52</sup> Yet Hirschfeld had spoken of precisely such “in-between forms” as proof of a broad spectrum of congenitally determined variation in gender characteristics and sexual orientation.

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<sup>50</sup> Beachy, “German Invention of Homosexuality,” 837-838; Dagmar Herzog, *Sex after Fascism: Memory and Morality in Twentieth-Century Germany* (Princeton: Princeton University Press, 2005), 34 and 130. In contrast to Herzog, Geoffrey Cocks emphasizes that many Nazi-era psychiatrists, Ministry of Justice officials, and Gestapo officers were resolute in their belief that homosexuality was an “incurable hereditary defect.” But Cocks provides support for Herzog’s view when he reveals that the Nazi Criminal Police agreed with the Göring Institute that “not all homosexuals were incurable [and that] there was [thus] hope that treatment could help to solve the problem.” He points out that the psychotherapists at the Göring Institute proudly claimed to have “cured” 500 men of their homosexuality. Geoffrey Cocks, “The Professionalization of Psychotherapy in Germany, 1928-1949,” in *Treating Mind & Body: Essays in the History of Science, Professions, and Society under Extreme Conditions* (New Brunswick, NJ and London: Transaction Publishers, 1998), 31-49, here 46-47.

<sup>51</sup> Biess, *Homecomings*, 90.

<sup>52</sup> Herzog, *Sex after Fascism*, 34.

The initial, short-lived postwar impulse to rehabilitate Freudianism in the SBZ was a reaction to the lingering shadow of the Göring Institute. Dietfried Müller-Hegemann (1910-1989) sought to develop a Marxist psychology that was inflected by psychoanalysis; indeed, he had gone so far as to praise the ““dialectical characteristics”” of Freudian psychoanalysis.<sup>53</sup> But the status of Sigmund Freud and of psychology more generally became more precarious during the years leading up to the establishment of the GDR, with SED party leader Fred Oelßner bewailing the “miserable phenomenon that is psychology” (*Elend der Psychologie*) in 1948. Freud’s name became a shorthand for the “bourgeois” tendency to privilege psychological and biological factors over societal and economic ones in determining human behavior, and indeed for Freudianism’s subversive potential to substitute subjective impressions for a more “objective” form of analysis.<sup>54</sup> The rejection of Freudianism represented a disturbing line of continuity with the National Socialist era.<sup>55</sup> While the explicit anti-Semitic thrust disappeared in East German psychotherapists’ antipathy towards Freud, the negative connotation of an undesirable fixation on sexuality remained.

Beginning in 1950, when Stalin declared Pavlov’s theories to be the “sole basis of Soviet psychology,” leading practitioners of psychiatry and psychotherapy in the GDR

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<sup>53</sup> Stefan Busse, *Psychologie in der DDR: Die Verteidigung der Wissenschaft und die Formung der Subjekte* (Weinheim and Basel: Beltz Verlag, 2004), 31.

<sup>54</sup> Busse, *Psychologie in der DDR*, 27.

<sup>55</sup> Herzog, “Hubris and Hypocrisy,” 5. There was, however, a key difference between Nazi and Communist anti-Freudianism. While the GDR sought to counter Freudian psychoanalysis with materialist doctrine, the Nazis had asserted the idealism of the soul against its alleged debasement by Freudians. Karl Fallend, Bernhard Handlbauer, Werner Kienreich, Johannes Reichmayr, and Marion Steiner, “Psychoanalyse bis 1945” in *Geschichte der deutschen Psychologie*, 113-45, here 134. The Nazis had thus perpetuated a viewpoint prevalent among members of the educated bourgeoisie (*Bildungsbürgertum*) in the 1920s, namely that Freudian psychology posed a materialist threat to idealism. Mitchell G. Ash, “Die experimentelle Psychologie an den deutschsprachigen Universitäten von der Wilhelminischen Zeit bis zum Nationalsozialismus,” in *Geschichte der deutschen Psychologie*, 45-82, here 66-67; Busse, *Psychologie in der DDR*, 69.

worked to ensure that the Pavlovian paradigm would take precedence in East German psychotherapeutic practice—even erstwhile Freudian enthusiast Müller-Hegemann quickly fell into line.<sup>56</sup> Pavlovian methods, unlike their supposedly outdated and discredited Freudian counterparts, were grounded in a materialist conception of the psyche that Soviet professionals and their East German acolytes deemed to be more in line with socialist conceptions of personhood.<sup>57</sup> At a conference convened on January 15-16, 1953 in Leipzig, Müller-Hegemann argued that overcoming the supposedly imperialist character of Freudian thought was tantamount to transcending the legacy of fascism in the profession. By embracing Pavlov and other strands of Soviet thinking, according to Müller-Hegemann’s logic, the GDR would triumph over the FRG as the true beacon of progress in research on psychotherapeutic methods.<sup>58</sup> Thus, the SED’s

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<sup>56</sup> Ethan Pollock, *Stalin and the Soviet Science Wars* (Princeton: Princeton University Press, 2006), 8, 10-11; Ernst, *Die beste Prophylaxe ist der Sozialismus*, 311; Sabine Hanrath, “Strukturkrise und Reformbeginn: Die Anstaltspsychiatrie in der DDR und der Bundesrepublik bis zu den 60er Jahren,” in *Psychiatriereform als Gesellschaftsreform: Die Hypothek des Nationalsozialismus und der Aufbruch der sechziger Jahre*, ed. Franz-Werner Kersting (Paderborn, Munich, Vienna and Zurich, 2003), 31-61, here 45; Heike Bernhardt, “Mit Sigmund Freud und Iwan Petrowitsch Pawlow im Kalten Krieg: Walter Hollitscher, Alexander Mette und Dietfried Müller-Hegemann in der DDR,” in *Mit ohne Freud: Zur Geschichte der Psychoanalyse in Ostdeutschland* (Gießen: Psychosozial-Verlag, 2000), 172-203, here 191.

<sup>57</sup> Jörg Schulz, “Die Rodewischer Thesen von 1963: Ein Versuch zur Reform der DDR-Psychiatrie,” in Kersting, ed., *Psychiatriereform als Gesellschaftsreform*, 87-100, here 92; Ernst, *Die beste Prophylaxe ist der Sozialismus*, 311, 322-330. Pavlov was far from an obvious choice to serve as the paragon of Soviet-style Communist science. Freud and Pavlov had been contemporaries who were aware of one another’s work and never considered one another to be rivals. Ernst, *Die beste Prophylaxe ist der Sozialismus*, 321. Indeed, Pavlov’s “political opposition to the [Soviet] regime [during the 1920s] was at least partly responsible for the fact that Pavlov only truly became a ‘hero’ of Soviet psychology after his death [in 1936].” Ironically, Pavlov had protested against the “Bolshevization” of the sciences in the 1920s. Annette Timm, “Guarding the Health of Worker Families in the GDR: Socialist Health Care, *Bevölkerungspolitik*, and Marriage Counselling, 1945-1970,” in *Arbeiter in der SBZ-DDR*, eds. Peter Hübner and Klaus Tenfelde (Essen: Klartext, 1999), 463-495, here 474, fn 38; Ernst, *Die beste Prophylaxe ist der Sozialismus*, 311.

<sup>58</sup> Bernhardt, “Mit Sigmund Freud und Iwan Petrowitsch Pawlow im Kalten Krieg,” 174.

tendency to conflate fascism and postwar Western capitalism in its propaganda was well underway in psychotherapeutic circles by 1953.<sup>59</sup>

Psychiatrist Dr. Alexander Mette (1897-1985), a key figure in the Pavlov campaign, would come to play a significant role in limiting Klimmer's ability to espouse his conceptualization of homosexuality within East German scientific circles. Although he had worked as a psychiatrist and psychoanalyst in Berlin from 1928 until 1946, Mette joined former psychoanalysis proponent Müller-Hegemann in attempting to tailor the Soviet-inspired Pavlovian and anti-psychoanalytic turn to East German circumstances.<sup>60</sup> At the 1953 conference, Mette went so far as to accuse psychoanalysts of having hindered the development of psychotherapy and to say that he would have embraced Pavlov instead of Freud in the 1920s had he been aware of Pavlov's work at the time.<sup>61</sup> While proclaiming, "I believe that I am the only person in this room who was ever a member of the International Psychoanalytic Association," he did not mention that on April 1, 1933, the day of a Nazi-led boycott of Jewish businesses, he had been suspected (incorrectly) of being Jewish precisely because of his psychoanalytic practice.<sup>62</sup>

One would think that Mette would have more vigorously defended psychoanalysis given his knowledge of the stigmatization of Freudian thought and practice by the Nazis.

A book of Mette's published in 1934 was banned by the Gestapo in 1935 for its

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<sup>59</sup> For the logic undergirding East German antifascism, see Alan L. Nothnagle, *Building the East German Myth: Historical Mythology and Youth Propaganda in the German Democratic Republic, 1945-1989* (Ann Arbor: University of Michigan Press, 1999), 12.

<sup>60</sup> Bernhardt, "Mit Sigmund Freud und Iwan Petrowitsch Pawlow im Kalten Krieg," 192; Busse, *Psychologie in der DDR*, 63. According to Anna-Sabine Ernst, this was not least because German scientists were accustomed to having Russian scientists follow their lead rather than the other way around. Ernst, *Die beste Prophylaxe ist der Sozialismus*, 319, 386.

<sup>61</sup> Ernst, *Die beste Prophylaxe ist der Sozialismus*, 389.

<sup>62</sup> Ernst, *Die beste Prophylaxe ist der Sozialismus*, 386. As it turns out, Mette was incorrect on this count; fellow conference attendee Walter Hollitscher had also been a member of the Association.

“deleterious tendencies and threat to public security,” and he was effectively forbidden to deliver lectures at the Göring Institute given his left-wing political sensibilities.<sup>63</sup> Thus Mette had suffered professional setbacks analogous to those endured by Klimmer during the Nazi era. Unlike Klimmer, however, Mette did not become involved in Communist politics until he joined the KPD on August 1, 1945.<sup>64</sup> And he proved himself to be an adept ideological chameleon when official enthusiasm for Pavlov began to wane in 1957.<sup>65</sup> This was due to the fact that even at the height of Pavlovian fervor, some had used his name as a cloak for a non-Pavlovian agenda. As Dr. Wolfram Körner, an internist at the Charité Hospital in Berlin during the 1950s, put it, “Just because Pavlov’s name was on something does not mean that it was actually Pavlovian (*Nicht überall wo Pawlow draufstand, war auch Pawlow drin*).”<sup>66</sup>

Mette had abandoned his psychoanalytic practice to become the Deputy Director of the Thüringen State Health Agency in Weimar in July 1946. He co-founded the journal *Psychiatrie, Neurologie und medizinische Psychologie* (*Psychiatry, Neurology,*

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<sup>63</sup> Bernhardt, “Mit Sigmund Freud und Iwan Petrowitsch Pawlow im Kalten Krieg,” 176-177.

<sup>64</sup> Ernst, *Die beste Prophylaxe ist der Sozialismus*, 303 (fn 189), 324, 386-387. Geoffrey Cocks mentions that Mette received his training at the Göring Institute without noting when that training came to an end; Cocks, *Psychotherapy in the Third Reich*, 374. For political cover during the Third Reich, Mette joined the Nazi People’s Welfare Organization and the Nazi Motorist Corps.

<sup>65</sup> Greg Eghigian argues that the attempt to “Pavlovize” East German psychiatry resulted in little more than reinforcing a “biological approach to psychiatric disorders” that pushed psychiatry and psychology closer to the natural than to the social sciences during the 1950s. The campaign was more “successful,” however, in stigmatizing psychoanalysis and forcing its practitioners underground. Eghigian, “Was There a Communist Psychiatry,” 365. In some sense, the Pavlov campaign was the last gasp of a Stalinist attempt to establish a clear demarcation between “bourgeois” and “proletarian” scientific endeavor. But this divide had already begun to dissipate given the international scientific collaboration afforded by the united antifascist front of the Allied powers during the Second World War. By the time of Stalin’s demise, it became even clearer that a Pavlovian *Sonderweg* that would isolate Soviet Bloc scientists from their “capitalist” counterparts was no longer tenable. Pollock, *Stalin and the Soviet Science Wars*, 4.

<sup>66</sup> Ernst, *Die beste Prophylaxe ist der Sozialismus*, 327.

and *Medical Psychology*) in 1949.<sup>67</sup> From 1950 until 1962, Mette was a member of the *Volkskammer* (People's Chamber). In 1952 he assumed the position of editor-in-chief at the publishing house People and Health (*Verlag Volk und Gesundheit*). That same year, he began teaching psychotherapy at the Humboldt University in East Berlin, where he received a full professorship in 1954.<sup>68</sup> Mette's tentative challenges to East German orthodoxy (when contrasted to Klimmer's far more strident ones) enabled him to reap professional rewards despite the SED's ongoing wariness about the psychological sciences.<sup>69</sup> Mette's professional life intersected with Klimmer's particularly after Mette became head of the Department of Science and Education at the Ministry of Health in 1956. It was in this capacity that he assessed the suitability for publication of Klimmer's monograph, *Die Homosexualität als biologisch-soziologische Zeitfrage (Homosexuality as a Biological and Sociological Question of Our Times)*. Mette acquired even greater influence in governmental circles when he ascended to a seat on the Central Committee of the SED from 1958 to 1963.<sup>70</sup>

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<sup>67</sup> Klimmer published four articles in *Psychiatrie, Neurologie und medizinische Psychologie* in 1949, 1968, 1969, and 1972. During the 1950s, Mette did not accept Klimmer's submissions about homosexuality from a "medical and biological perspective" and the "criminal responsibility of a person committing homosexual acts" for publication in the journal. SchA, Klimmer NL, folder: Briefwechsel/Grabrede, draft of Otto Andree's obituary for Rudolf Klimmer that was to appear in *Psychiatrie, Neurologie und medizinische Psychologie* in 1977 or 1978; SchA, Klimmer NL, folder: Briefwechsel/Grabrede, Rudolf Klimmer's response to Alexander Mette's assessment of his manuscript *Die Homosexualität*, May 2, 1957, 3 of document.

<sup>68</sup> Günter Grau, "Im Auftrag der Partei: Versuch einer Reform der strafrechtlichen Bestimmungen zur Homosexualität in der DDR 1952," *Zeitschrift für Sexualforschung* 9 (June 1996), 109-130, here 114; Ernst, *Die beste Prophylaxe ist der Sozialismus*, 387-388.

<sup>69</sup> For instance, in 1956, Mette published a biography of Freud, which praised him for some aspects of his thinking while ultimately rejecting his theoretical oeuvre. The fact that Mette had any praise at all to spare for Freud made him a magnet for criticism from colleagues like Dietfried Müller-Hegemann of Leipzig; consequently, a new 1958 edition of the biography featured the subheading *From Freud to Pavlov* even though Pavlov's star had already fallen by then. Ernst, *Die beste Prophylaxe ist der Sozialismus*, 389-390.

<sup>70</sup> Ernst, *Die beste Prophylaxe ist der Sozialismus*, 388.

## Competing Understandings of Homosexuality

The Göring Institute had ostracized both Klimmer and Mette for political reasons. Klimmer's implicit argument was that if Mette wanted to eliminate the influence of the Göring Institute over East German psychiatry, then he should have rejected the seduction hypothesis that the Institute had so fervently embraced. While Mette admitted the existence of both congenital and environmental factors in the etiology of homosexuality, he attributed a greater causal role to the development of homosexuality through seduction (*Verführung*) or acclimation (*Angewöhnung*). Klimmer never denied that one could be seduced into engaging in occasional homosexual acts, and he conceded that the development of a homosexual orientation might even be induced to some degree by familial influences during the first few years of a person's life.<sup>71</sup> But Klimmer ultimately put greater stock in a century's worth of sexological findings in support of the primacy of congenital factors in the etiology of a homosexual orientation.<sup>72</sup>

Klimmer's conceptualization of homosexuality owed a debt to sexological predecessors like Hirschfeld and Richard von Krafft-Ebing, but it also resonated with views espoused after 1945 by Bürger-Prinz, who went to great lengths to distance himself from his Nazi-era viewpoints. Bürger-Prinz articulated a "quite sophisticated, even radical, theory of sexuality" marked by "the decoupling of physical desires from psychic attachments or the awareness that there is nothing natural or inevitable about

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<sup>71</sup> SchA, Klimmer NL, folder: Briefwechsel/Grabrede, Rudolf Klimmer's response to Alexander Mette's assessment of his manuscript *Die Homosexualität*, May 2, 1957, 2 of document.

<sup>72</sup> While Klimmer's and Mette's epistolary exchange of ideas regarding the etiology of homosexuality and the suitability of Klimmer's manuscript for publication constitutes the core of the analysis that follows, I have embedded their dispute within a discussion of the broader context of Klimmer's published work and correspondence during the 1940s and 1950s.

heterosexuality.”<sup>73</sup> Also integral to this theory was the decoupling of sexuality from procreation, and Klimmer made a point of noting that one of East Germany’s foremost gynecologists—Norbert Aresin (1911-1971), a professor at the University of Leipzig who along with his wife Lykke Aresin presided over one of the GDR’s most popular sexual counseling centers—agreed with him on this count.<sup>74</sup>

While there were other sexual researchers in both the GDR and FRG who advocated decoupling the linkage between sexuality and procreation, however, Klimmer echoed his West German counterpart Giese in his advocacy of the societal usefulness of stable same-sex sexual relationships during the 1950s. He characterized as

incorrect [...] the contention that homosexual relationships have no social purpose. This is an outdated point of view. Sexology has demonstrated that human sexual activity does not merely serve the aim of procreation. Only the regular, full satisfaction of the sexual drive can help one to avoid dangerous obstructions. Preventing this easing of sexual tension from taking place often leads to illness, a lack of desire to work, or to the eruption of the drive in socially dangerous forms. Thus same-sex sexual relations have meaning and value for homosexually oriented people since such relations are conducive to making oneself and one’s partner happy and thereby capable of engaging in socially important work.<sup>75</sup>

Klimmer was convinced that preventing gay men from acting upon their sexual predisposition would prevent them from reaching their full potential in the workforce. Since contented and productive workers were integral to the building of both socialist and capitalist societies, Klimmer advanced the novel argument that the destigmatization and decriminalization of homosexuality would actually strengthen the nascent postwar

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<sup>73</sup> Herzog, “Desperately Seeking Normality,” 186.

<sup>74</sup> Rudolf Klimmer, *Die Homosexualität als biologisch-soziologische Zeitfrage*, rev. ed. (Hamburg: Kriminalistik Verlag, 1965 [1958]), 11.

<sup>75</sup> SchA, Klimmer NL, folder: Sonderdrücke, Rudolf Klimmer, Rezension von Helmut Schelsky, *Soziologie der Sexualität*, *Geist und Tat* 12 (April 1957), 145-147, here 147.

German states. If some gay men were seemingly thwarting the viability of these polities through their “unemployment and other ‘difficulties in fulfilling the male role in modern society,’” they were certainly not doing so on purpose.<sup>76</sup> It was for this reason that Klimmer hoped that the psychological sciences would do more to focus on helping gay men cope with the implications of their sexual orientation for other aspects of their lives rather than expend so much effort in trying to discern the etiology of homosexuality.<sup>77</sup>

The conceptual framework that Klimmer shared with Bürger-Prinz, Hirschfeld, and Krafft-Ebing ascribed great significance to the distinction between homosexual acts (*homosexuelle Handlungen*), homosexual sensibility or feeling (*homosexuelles Empfinden oder Gefühl*), and homosexuality as a sexual orientation (*Homosexualität*).<sup>78</sup> Klimmer believed that feelings trumped acts when it came to identifying a true homosexual inclination.<sup>79</sup> This distinction originated with Johann Ludwig Casper, who in 1852 differentiated between “sexual act and disposition” in characterizing same-sex sexual activity and desire. While the “disposition” connoted a “hermaphroditism of the soul” for Casper, the sexual act itself did not.<sup>80</sup>

The semantic slippage inherent in the term “homosexuality,” however, made it difficult even for those who supported Klimmer’s point of view to abide by this differentiation. Novelist and playwright Johannes Tralow of East Berlin, for instance, agreed with Klimmer that a same-sex sexual orientation could not be eliminated through hormone therapy or surgery and consequently believed that Klimmer’s efforts were “all

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<sup>76</sup> Klimmer, Rezension von Helmut Schelsky, *Soziologie der Sexualität*, 146.

<sup>77</sup> Klimmer, *Die Homosexualität als biologisch-soziologische Zeitfrage*, 53.

<sup>78</sup> Klimmer, *Die Homosexualität als biologisch-soziologische Zeitfrage*, 20.

<sup>79</sup> James D. Steakley, “*Per scientiam ad justitiam*: Magnus Hirschfeld and the Sexual Politics of Innate Homosexuality,” in *Science and Homosexualities*, 133-154, here 148.

<sup>80</sup> Oosterhuis, “Homosexual Emancipation in Germany Before 1933,” 12.

the more worthwhile.” But when he published his autobiography *Der Beginn (The Beginning)* in 1958, Tralow chose to conceal his earlier homosexual feelings. Tralow confided to Klimmer, “I am not at all proud of [my failure to mention] this. I feel the need to atone for my omission since I once believed that I felt a faint stirring in this direction (*eine leise Regung in dieser Richtung*). But this stirring went away immediately and has never shown itself again.”<sup>81</sup> While Tralow endorsed Klimmer’s notion of homosexual orientation as immutable, his own experience of homosexual feeling was fleeting. Since both orientation and feeling fell under the rhetorical rubric of homosexuality, the experiential dimension of a homosexual orientation could be transient even for someone like Tralow who believed that orientation to be permanent.

Even though Klimmer frequently relied upon Kinsey’s findings regarding the prevalence of homosexual conduct, he rejected Kinsey’s ostensible conflation of homosexual acts, feelings, and identities. As Klimmer pointed out, if Kinsey were right, “there would have to be far more homosexuals, since many people had their first sexual experiences with members of the same sex.”<sup>82</sup> Also worrying to Klimmer was the fact that his colleagues in both East and West Germany were instrumentalizing Kinsey’s findings so as to perpetuate the Göring Institute’s espousal of the seduction hypothesis and the concomitant belief that there was some degree of homosexual sensibility in everyone.<sup>83</sup> This assumption weakened the scientific basis for categorizing homosexuals

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<sup>81</sup> SchA, Klimmer NL, folder: Briefe prominenter gesellschaftlicher Vertreter über § 175 und Homosexualität, letter from Johannes Tralow, Berlin-Friedrichshagen, to Rudolf Klimmer, Dresden, October 4, 1960.

<sup>82</sup> Klimmer, *Die Homosexualität als biologisch-soziologische Zeitfrage*, 149; SchA, Klimmer NL, folder: Sonderdrucke, Rudolf Klimmer, “Zur Frage des Schutzalters bei homosexuellen Handlungen,” *Medizinische Klinik. Wochenschrift für Klinik und Praxis* 65, no. 36 (September 4, 1970), 1603-1606 in the original, 1-11 in transcript, here 3.

<sup>83</sup> Klimmer, *Die Homosexualität als biologisch-soziologische Zeitfrage*, 21.

as a distinct minority and drew unwarranted attention to the threat allegedly posed by same-sex sexual activity to the “healthy” sexual maturation of adolescents. It is for this reason that Klimmer criticized prominent West German sociologist Helmut Schelsky for echoing Kinsey’s confusion of “homosexual acts with homosexuality.”<sup>84</sup> While Giese felt that Kinsey had shown that pretty much anyone was conceivably susceptible to engaging in nonnormative sexual behavior *and* experiencing homosexual feelings, Klimmer firmly believed that not everyone had the propensity for the kind of sexual drive *and* conduct experienced by “real” gay men: “[w]hat is unique about homosexuals is not that they have a form of sexual feeling [*Empfinden*] to which many people are privy, but that they have it continuously and exclusively.”<sup>85</sup> If an underage male prostitute did not acquire a homosexual orientation after having engaged in repeated same-sex sexual acts at a relatively young age, Klimmer wondered, then who would?<sup>86</sup> To refute the notion of acclimation to a homosexual disposition, Klimmer reiterated stances articulated earlier by Krafft-Ebing, Albert Moll (1862-1939), and Havelock Ellis (1859-1939), all of whom had maintained that acquired homosexuality was most likely a belated manifestation of a previously latent congenital homosexual or bisexual orientation.<sup>87</sup>

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<sup>84</sup> Klimmer, Rezension von Helmut Schelsky, *Soziologie der Sexualität*, 146.

<sup>85</sup> SchA, Klimmer NL, folder: Sonderdrücke, Rudolf Klimmer, “Diskussion: Schlußwort zu ‘Die strafrechtliche Verantwortung für homosexuelle Handlungen,’” *Der medizinische Sachverständige* 55, no. 11/12 (November/December 1959), 253-255, here 253.

<sup>86</sup> SchA, Klimmer NL, folder: Briefe Dr. Rudolf Klimmers an Prof. Mette, 1953-1957, letter from Rudolf Klimmer, Dresden to Alexander Mette, Berlin-Niederschönhausen, August 30, 1956, back side of letter.

<sup>87</sup> SchA, Klimmer NL, folder: HE-DDR, Rudolf Klimmer, “Die Homosexualität” (speech delivered at the *Kulturbund* in Dresden on April 30, 1947), 2 of document. Rainer Herrn offers a decidedly different assessment of Moll’s theories than Klimmer did: “In [Albert Moll’s] conception, homosexuality was a form of arrested development caused by a psychological deficiency. Contrary to [Karl Heinrich] Ulrichs’s concept of an inherited disposition, Moll asserted that rearing and environment are essential influences in the development of homosexuality. He further argued that homosexuality is therefore treatable.” Rainer Herrn, “On the History of Biological Theories of Homosexuality,” *Journal of Homosexuality* 28, nos. 1-2 (1995), 31-56, here 48.

This disagreement was part of a discursive trajectory reaching back to the nineteenth century whereby the preservation of heterosexual male hegemony was ironically contingent upon drawing attention to the precarious stability of a heterosexual orientation.<sup>88</sup> The concern that male youth could be seduced into homosexuality had emerged in the nineteenth century and was predicated upon the characterization of same-sex sexual object choice as a form of contagion that would lead to degeneration and the inevitable decline of society. Thus Mette could rightly point out that a belief in the malleability of both homosexual and heterosexual orientations was not unique to the Nazi mindset.<sup>89</sup> His concern that all men could prove vulnerable to homosexual temptation was a correlate of his belief that under the right conditions, like those obtaining in socialist society, a gay man could become acclimated to opposite-sex sexual acts.

Given the precarious status of the psychological sciences in the GDR at the time, the prevailing “cure” for homosexuality entailed not so much an exploration of one’s conscience as a raising of one’s socialist consciousness. To challenge this mindset, Klimmer claimed that “homosexual behavior is not a form of bourgeois degeneration (*Entartung*), as has been falsely assumed.”<sup>90</sup> While his use of the passive voice allowed Klimmer to avoid ascribing this assumption to his fellow East Germans, he challenged the strand of socialist and Communist thought that posited homosexuality as part of the climate of profligacy that pervaded the exploitative propertied classes under capitalism

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<sup>88</sup> Judith Surkis, *Sexing the Citizen: Morality and Masculinity in France, 1870-1920* (Ithaca: Cornell University Press, 2006), 5-7.

<sup>89</sup> Chandak Sengoopta, “Glandular Politics: Experimental Biology, Clinical Medicine, and Homosexual Emancipation in Fin-de-Siecle Central Europe,” *Isis* 89, no. 3 (September 1998), 445-473, here 468-469.

<sup>90</sup> Klimmer, *Die Homosexualität als biologisch-soziologische Zeitfrage*, 161; Steakley, “Gays under Socialism,” 16.

and that would gradually disappear under the auspices of socialism.<sup>91</sup> Indeed, he identified as a promulgator of such misguided thinking the Communist French novelist Henri Barbusse (1873-1935), who had maintained that “sexual orientations that deviate from the norm only occur among the highly decadent propertied classes.”<sup>92</sup> By asserting that homosexuality was an innate condition rather than a decadent vice through which men of higher social station sexually subjugated proletarian men, Klimmer was at odds with Communist understandings of the constitution of the self in which societal conditions played the key constitutive role.

For Klimmer, the universality of homosexual proclivities was evidence of their congenital origin. Klimmer’s strategy was akin to that of other homosexual rights activists of the time outside of East Germany. As David Churchill contends,

[t]o be able to make rights claims and appeal to universal foundations, homophiles had to show that homosexuals were not merely a small group of sexual deviants living in the modern West. In order to demonstrate that homosexuality was not pathology, they needed to prove that homosexuals were human actors with a deep and ancient history, one that appears throughout time, in all corners of the earth.<sup>93</sup>

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<sup>91</sup> Steakley, “Gays under Socialism,” 16. As Gert Hekma, Harry Oosterhuis, and Jim Steakley note, “[s]ocialists have repeatedly ascribed homosexuality to the ‘class enemy,’ contrasting the ‘manly’ vigor and putative purity of the working-class with the emasculated degeneracy and moral turpitude of the aristocracy and haute bourgeoisie. The socialist concept of progress has long envisioned a utopia in which homosexuality would have no place, indeed would automatically disappear as an outdated remnant of oppressive vice and social malaise.” Gert Hekma, Harry Oosterhuis, and James Steakley, “Leftist Sexual Politics and Homosexuality: A Historical Overview,” in *Gay Men and the Sexual History of the Political Left*, eds. Gert Hekma, Harry Oosterhuis, and James Steakley (New York: Haworth Press, 1995), 1-40, here 8. This viewpoint manifested itself in the “capitalist” West as well. To cite a contemporaneous example: Arthur L. Miller, a Republican Congressman from Nebraska, “drew a connection [in 1950] between class, intellectuality, and homosexuality, insisting that ‘perversion is found more frequently among the higher levels [of society] where nervousness, unhappiness, and leisure time leads [sic] to vices.” K. A. Cuordileone, *Manhood and American Political Culture in the Cold War* (New York: Routledge, 2005), 54.

<sup>92</sup> Klimmer, *Die Homosexualität als biologisch-soziologische Zeitfrage*, 161; Grau, “Ein Leben im Kampf,” 61-62. This trope had a lengthy genealogy, as Helmut Puff has helpfully conveyed to me, but its rearticulation by Barbusse is significant given that August Bebel had expressed a similar viewpoint in *Der Frau und der Sozialismus* in 1879. Hekma, Oosterhuis, and Steakley, “Leftist Sexual Politics,” 15.

<sup>93</sup> Churchill, “Transnationalism and Homophile Political Culture,” 48, 50, 57.

Mette interpreted this historical evidence quite differently:

When, for example, Sophocles, Euripides, and Socrates are mentioned, it would be more appropriate to discuss in more depth the problem of pederasty in Greece and to shed light upon the relationship between homosexuality and pederasty, rather than to adhere to terminology in the way that he does. Pederasty as a special form of eroticism is not dealt with more closely, even though taking up this theme would be suitable for showing how homosexual acts can certainly develop on the basis of widespread customs (*verbreiteter Gepflogenheiten*).<sup>94</sup>

For Mette, ancient Greece was a cautionary tale regarding the consequences of permissive societal mores rather than an example of a society in which naturally occurring same-sex impulses had attained some form of societal recognition. Klimmer did not challenge the notion that homosexual acts could become more widespread during various historical periods, but he wondered whether “more homosexual acts are really being performed and if there are really more homosexuals during these times, or if people were more open about homosexuality and thus homosexuals were more identifiable than

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<sup>94</sup> BArch Berlin-Lichterfelde, DQ1 2129, Ministerium für Gesundheitswesen (hereafter MfG), HA Wissenschaft, Berlin, Gutachten über das Manuskript Dr. med. Rudolf Klimmer *Die Homosexualität*, signed by Alexander Mette, December 29, 1956, 3 of document, 296 of archival file. Klimmer noted in 1970 that “Greek love also speaks against the assumption that one can be seduced into pure homosexuality [since] ancient Greeks who indulged in pederasty were married and had children, and the youth whom they loved also married when they became older.” In other words, Klimmer deemed it important to repudiate the notion of ancient Greece as a touchstone for “widespread” homosexuality. Instead, the example of cross-generational same-sex relationships in ancient Greece provided for Klimmer further confirmation of the impossibility of converting the sexual orientation of otherwise heterosexual adolescents through situational homosexual conduct alone. Klimmer, “Zur Frage des Schutzalters,” 3. Whatever their other disagreements, both Klimmer and Mette appeared to rely upon a conception of “customs” derived from “Western” anthropology, a discipline that had largely disappeared from the East German academic landscape. In later years, the reliance upon a “Western” anthropological understanding of the cultural variability of “customs” became explicit even in East German sexual advice literature intended for popular audiences; see Siegfried Schnabl, *Mann und Frau intim: Fragen des gesunden und des gestörten Geschlechtslebens*, 5<sup>th</sup> ed. (Berlin: Verlag Volk und Gesundheit, 1972 [1969]), 31.

at other times.”<sup>95</sup> He might have added that more vigorous enforcement of penal provisions against homosexuality also tended to enhance its visibility in society. In denigrating same-sex sexual behavior as a form of depravity, Mette was allowing a moral and ideological vantage point to take precedence over his medical sensibility.<sup>96</sup> But Klimmer also opened himself to a potential objection of Mette’s, namely that if East Germany were itself to become more “open” regarding the topic of homosexuality, then it could appear that homosexuality was on the rise in the GDR, whether or not that was actually the case.

For Mette, the higher incidence of homosexuality during certain historical epochs was not a result of the greater prevalence of a pathological constitutional predisposition towards homosexuality but instead of contextually specific customs that fostered a penchant for same-sex sexual acts.<sup>97</sup> But even Mette and Giese harbored some doubts about the seduction hypothesis. Giese conceded that “the fundamental imprinting of

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<sup>95</sup> SchA, Klimmer NL, folder: Briefe Dr. Rudolf Klimmers an Prof. Mette, 1953-1957, letter from Rudolf Klimmer, Dresden to Alexander Mette, Berlin-Niederschönhausen, October 27, 1956, front side of document. In criticizing Schelsky for worrying that homosexuality could become “‘fashionable,’” Klimmer wrote, “It must be admitted that there are times when homosexuality makes itself more manifest. This does not mean, however, that there are more homosexuals, but rather that they are more confident in making themselves visible as such. There are also short, passing periods in which people who love members of the opposite sex carry out homosexual acts more frequently. But this is not a reason to deny the biological origin of homosexuality.” Klimmer, Rezension von Helmut Schelsky, *Soziologie der Sexualität*, 145.

<sup>96</sup> SchA, Klimmer NL, folder: Briefe Dr. Rudolf Klimmers an Prof. Mette, 1953-1957, letter from Rudolf Klimmer, Dresden to Alexander Mette, Berlin-Niederschönhausen, October 27, 1956, front and back sides of letter. As Jennifer Evans points out, “[e]ven the generally progressive East German *Dictionary of Sexology* from 1964 characterized homosexuals as ‘rapturous, gushing, and exalted [personalities] of fragile affect, with early sexual awakening.’ Gynecologist Wolfgang Bretschneider never wavered from his conviction that homosexuality spread by seduction to prepubescent youth. Physician and sexual counselor Rudolf Neubert abided by the “standard line” according to which gay men were ‘pleasure-addicted progeny of rich families.’” Jennifer V. Evans, “Decriminalization, Seduction, and ‘Unnatural Desire’ in East Germany.” *Feminist Studies* 36, no. 3 (Fall 2010), 553-577, here 560; Bert Thinius, “Erfahrungen schwuler Männer in der DDR und in Deutschland Ost,” in *Homosexualität in der DDR: Materialien und Meinungen*, ed. Wolfram Setz (Hamburg: Männerschwarm Verlag, 2006), 9-88, here 17.

<sup>97</sup> SchA, Klimmer NL, folder: Briefwechsel/Grabrede, letter from Alexander Mette, Berlin-Niederschönhausen, to Rudolf Klimmer, Dresden, October 5, 1956.

sexuality no longer occurs during puberty.” And Mette acknowledged that Sigmund Freud had shared Klimmer’s hypothesis that a child could no longer be seduced into homosexuality once he had reached the age of fourteen. But Mette ultimately felt that Klimmer’s distinction between congenital and acquired homosexuality was an arbitrary and spurious one.<sup>98</sup> Even though he believed that same-sex sexual experience during adolescence might not result in a lifelong homosexual orientation, Giese feared that it might nonetheless evoke “sexual disorders even when the ability to enjoy heterosexual acts otherwise remains intact.”<sup>99</sup> Just as sex advice authors continued to caution against the deleterious effects of masturbation in the mid-twentieth century even though most medical experts had come to disavow such warnings, Giese adopted a better-safe-than-sorry attitude regarding the advisability of avoiding same-sex sexual contacts.<sup>100</sup> For Klimmer, by contrast, if seduction early in life could not account for a lifelong homosexual orientation, then it could not be correlated with rather nebulously defined “sexual disorders” either.

And even though Kinsey’s studies were based upon a quantitative measurement of sexual behavior than a qualitative study of sexual identities, he was not actually providing fodder for the seduction hypothesis, as Klimmer also recognized. Kinsey

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<sup>98</sup> BArch Berlin-Lichterfelde, DQ1 2129, MfG, HA Wissenschaft, Berlin, Gutachten über das Manuskript Dr. med. Rudolf Klimmer *Die Homosexualität*, signed by Alexander Mette, December 29, 1956, 2 of document, 295 of archival file. In this regard, Mette was actually following the example of Krafft-Ebing, who had also believed that it would be difficult to tell congenital and acquired homosexuality apart in practice. Merl Storr, “Transformations: Subjects, Categories and Cures in Krafft-Ebing’s Sexology,” in *Sexology in Culture*, 11-26, here 15, 19, drawing upon Richard von Krafft-Ebing, *Psychopathia sexualis, with Especial Reference to the Antipathic Sexual Instinct*, trans. Franklin S. Klaf (London: Staples Press, 1965), 188; Stephanie H. Kenen, “Who Counts When You’re Counting Homosexuals? Hormones and Homosexuality in Mid-Twentieth-Century America,” in *Science and Homosexualities*, 197-218, here 202.

<sup>99</sup> Klimmer, “Zur Frage des Schutzalters,” 5.

<sup>100</sup> Thomas Laqueur, *Solitary Sex: A Cultural History of Masturbation* (New York: Zone Books, 2003), 359-360.

found that 37 percent of urban North American men and 13 percent of urban North American women had engaged in some form of same-sex sexual activity and that 50 percent of American men had been sexually aroused by members of their own sex. But Kinsey made a point of noting that this sexual activity had occurred *after* the conclusion of puberty. Klimmer also relied upon Kinsey's determination that while 37.5 percent of nineteen-year-old men in his survey had engaged in same-sex sexual acts, only 4 percent of those nineteen-year-olds developed a homosexual orientation over the long term.<sup>101</sup> Klimmer's own estimate that 2.3 percent of the population was exclusively homosexual was lower than Kinsey's.<sup>102</sup>

But this knowledge did not stop Klimmer from remaining puzzled as to why heterosexuals would want to engage in same-sex sexual acts and thereby unnecessarily subject themselves to the possibility of criminal prosecution. While he did not discount the existence of a bisexual orientation, he deemed it to have been far more prevalent in the global south than among peoples north of the equator.<sup>103</sup> A recurring argument of

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<sup>101</sup> Klimmer, "Zur Frage des Schutzalters," 3.

<sup>102</sup> SchA, Klimmer NL, folder: HE-DDR, Rudolf Klimmer, "Die Homosexualität," April 30, 1947, 4-5 of document. Klimmer's estimation of the prevalence of homosexuality in the population was a relatively conservative one even within Germanophone scholarship. It roughly corresponded with a figure published in *Freundschaftsblatt (Friendship Newsletter)* on January 14, 1927, according to which there were 1,164,000 homosexuals of voting age in Germany. Klimmer rejected SS leader Rudolf Klare's estimate of roughly 3 million homosexuals in Germany in his 1937 dissertation "Homosexualität und Strafrecht" ("Homosexuality and Criminal Law") because Klare conflated homosexual acts with a homosexual orientation. It is striking that Klimmer would refer to Klare's work at all, given the context in which it was produced and the opinions that Klare expressed. Klare believed that "the majority of 'homosexual' men 'preferred boys and youths,' and [that] homosexuality resulted from seduction. 'Homosexuality must be regarded as a threat to the *Volk* community, since homosexuals exhibit a tendency to form cliques, seduce the young, and, above all, undermine the natural will to life by propagating an aversion to marriage and the family.'" Stefan Micheler, "Homophobic Propaganda and the Denunciation of Same-Sex Desiring Men under National Socialism," in *Sexuality and German Fascism*, 95-130, here 103.

<sup>103</sup> Klimmer, *Die Homosexualität als biologisch-soziologische Zeitfrage*, 31. For an intellectual genealogy of this idea, see Julian Carter, "Normality, Whiteness, Authorship: Evolutionary Sexology and the Primitive Pervert," in *Science and Homosexualities*, 155-176, here 164; Rudi C. Bleys, *The Geography of Perversion: Male-to-Male Sexual Behavior Outside the West and the Ethnographic Imagination, 1750-1918* (New York: New York University Press, 1996), 216-219. Klimmer adopted Krafft-Ebing's notion

Klimmer's was, after all, that while heterosexuals could choose whether or not to engage in homosexual acts because they could satisfy their sexual drive with heterosexual acts and not face criminal penalties, those with a homosexual orientation did not have the liberty of such a choice.<sup>104</sup> Klimmer definitively rejected the argument that gay men could "choose" to marry women and thus overcome their attraction to members of their own gender, and he felt that it was impossible for gay men to abide by the unreasonable expectation that they sublimate their sexual drive.

Even though Klimmer drew upon a formidable body of research for his monograph, Mette criticized him for ignoring the heterogeneity of opinion within the scientific community regarding homosexuality and for selectively invoking evidence that supported his own standpoint.<sup>105</sup> Mette did not give Klimmer any credit for having attempted to engage with the Pavlovian paradigm even as he criticized Klimmer for contradicting himself in trying to reconcile his congenital understanding of homosexuality with the Pavlovian concept of an environmentally determined "dynamic stereotype."<sup>106</sup> Mette also failed to acknowledge that Klimmer's view of the power of science to foster the emancipation of homosexuals was an ambivalent one. While Klimmer fervently believed that science could provide the empirical basis for changing

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that less "developed" peoples placed less emphasis on the importance of gender differentiation, whether in sexuality or other aspects of life; see Lucy Bland, "Trial by Sexology? Maud Allan, *Salome* and the 'Cult of the Clitoris' Case," in *Sexology in Culture*, 183-198, here 184; Storr, "Transformations," 14.

<sup>104</sup> SchA, Klimmer NL, folder: Briefe Dr. Rudolf Klimmers an Prof. Mette, 1953-1957, letter from Rudolf Klimmer, Dresden to Alexander Mette, Berlin-Niederschönhausen, October 27, 1956, front side of letter.

<sup>105</sup> Grau, "Ein Leben im Kampf," 60-61; BArch Berlin-Lichterfelde, DQ1 2129, MfG, HA Wissenschaft, Berlin, Gutachten über das Manuskript Dr. med. Rudolf Klimmer *Die Homosexualität*, signed by Alexander Mette, December 29, 1956, 1 of document, 294 of archival file.

<sup>106</sup> Klimmer objected to this criticism because he was convinced that Pavlov (or at the very least his student Ishlonski) had also recognized the important role played by constitutional factors. SchA, Klimmer NL, folder: Briefwechsel/Grabrede, Rudolf Klimmer's response to Alexander Mette's assessment of his manuscript *Die Homosexualität*, May 2, 1957, 2 of document.

legal codifications and popular attitudes regarding homosexuality, he was frustrated that all too many scientific experts had failed to capture the full range of conceivable homosexual subjectivities or overcome their own prejudices. From Klimmer's perspective, Mette's critique was disingenuous, since his real objection was that Klimmer had authored a book that characterized homosexuals as a biological minority burdened by societal discrimination and that rejected the possibility of a cure for homosexuality.<sup>107</sup>

Mette was particularly critical of what he took to be Klimmer's reification of the sex drive at the expense of procreative imperatives.<sup>108</sup> After all, for Mette a homosexual disposition resulted not just from an excess of same-sex desire, but of sexual drive itself. In fact, Mette cited oversatiation (*Übersättigung*) by sexual contacts with women as another paradoxical trigger for the emergence of a homosexual orientation.<sup>109</sup> This was another example of how *both* Mette and Klimmer could instrumentalize Krafft-Ebing's theories for their own purposes. As Charles Upchurch observes, in

Krafft-Ebing's case studies[,] effeminacy and the lack of masculine self-control were the greatest markers of degeneration rather than sexual desire for other men. Men born with feelings of same-sex desire, congenital invert, could easily

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<sup>107</sup> SchA, Klimmer NL, folder: Briefwechsel/Grabrede, Rudolf Klimmer's response to Alexander Mette's assessment of his manuscript *Die Homosexualität*, May 2, 1957, 1 and 3 of document. According to Jim Steakley, more was at stake in the nascent GDR when it came to "curing" homosexuality than simply the professional reputation of the professionals attempting such a cure. The "preposterous notion that homosexuality could be cured by 'hard work, athletics, etc.'" reflected the larger GDR program of intensive labour to keep the state from floundering economically; hard work became the therapy of choice for an astonishing range of maladies during the 1950s." Steakley, "Gays under Socialism," 16.

<sup>108</sup> SchA, Klimmer NL, folder: Briefwechsel/Grabrede, Rudolf Klimmer's response to Alexander Mette's assessment of his manuscript *Die Homosexualität*, May 2, 1957, 2-3 of document; BArch Berlin-Lichterfelde, DQ1 2129, MfG, HA Wissenschaft, Berlin, Gutachten über das Manuskript Dr. med. Rudolf Klimmer *Die Homosexualität*, signed by Alexander Mette, December 29, 1956, 2 of document, 295 of archival file.

<sup>109</sup> SchA, Klimmer NL, folder: Briefe Dr. Rudolf Klimmers an Prof. Mette, 1953-1957, letter from Rudolf Klimmer, Dresden to Alexander Mette, Berlin-Niederschönhausen, August 30, 1956, front side of letter. Mette was echoing a concern that had been expressed by pre-1945 sexologists. Chris Waters, "Havelock Ellis, Sigmund Freud and the State: Discourses of Homosexual Identity in Interwar Britain," in *Sexology in Culture*, 165-179, here 168.

become diseased through lack of self-control, just as men born with heterosexual desires became degenerate in the same way.<sup>110</sup>

Klimmer insisted that he was not heedlessly following Wilhelm Reich's warnings about the deleterious consequences of sexual repression and thereby promoting an inappropriately Freudian reification of the sexual drive or rejecting the importance of self-control.<sup>111</sup> Instead, Klimmer was intent on demonstrating that "the homosexual drive is merged with one's personhood in its entirety. The homosexual cannot be understood through his sexuality alone, but instead through his overall individual characteristics. His sexual inclinations and aversions are merely symptoms. What matters are his psyche and his habitus in its entirety."<sup>112</sup> Whether intentionally or not, this positioning on Klimmer's part actually resonated with the East German refrain that militated against Freud's supposedly excessive emphasis on an indomitable sexual drive that took precedence over other facets of personhood.

While Klimmer denied that same-sex sexual activity would bring about the degeneration of the social body, his thinking still bore the marks of eugenicist fears that homosexuality would lead to a distortion of appropriate gender behavior on an individual level. Even as Klimmer tried to absolve gay men of the accusation that they were harbingers of societal decline, he found that they were often guilty as charged when it came to the question of gender transgression. Klimmer attributed this verdict to no less a medical authority than the preeminent Rudolf Virchow (1821-1902), who was convinced

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<sup>110</sup> Charles Upchurch, "Liberal Exclusions and Sex between Men in the Modern Era: Speculations on a Framework," *Journal of the History of Sexuality* 19, no. 3 (September 2010), 409-431, here 424-425.

<sup>111</sup> SchA, Klimmer NL, folder: Briefwechsel/Grabrede, Rudolf Klimmer's response to Alexander Mette's assessment of his manuscript *Die Homosexualität*, May 2, 1957, 2 of document.

<sup>112</sup> SchA, Klimmer NL, folder: HE-DDR, Rudolf Klimmer, "Die Homosexualität," April 30, 1947, 3 of document.

that homosexuality was the result of a “female disposition (*Gemüt*) in a male body.”<sup>113</sup>

And Klimmer emulated Hirschfeld and other early twentieth-century sexologists in warning gay men against fathering children lest they transmit their congenital predisposition to another generation.<sup>114</sup>

Klimmer insisted that there were more “virile” gay men than commonly assumed, and that lack of awareness of their existence was “often conducive to a faulty assessment of homosexuals” as uniformly posing an affront to respectable masculinity. He criticized Bürger-Prinz for having dismissed gay men’s effeminate habitus as merely “superficial imitation” of female characteristics that resulted from their “weakness, a lack of an adventuresome spirit (*Erlebnisleere*), and a craving for validation (*Geltungssucht*).”<sup>115</sup>

Klimmer also mentioned the defense of gender nonconformists that Karl-Heinrich Ulrichs (1825-1895), a pioneer in the conceptualization of same-sex sexual desire, had advanced. Ulrichs contended that effeminacy was an integral attribute of many homosexual men, and that if gay men were engaging in any form of “superficial imitation,” it was of the masculine mannerisms that had been imposed upon them during their upbringing.<sup>116</sup>

And yet Klimmer did not challenge the fundamental validity of Bürger-Prinz’s assumption regarding the gender characteristics of gay men. Indeed, he deemed it

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<sup>113</sup> Ibid.

<sup>114</sup> For the rationale behind Hirschfeld’s stance, see Sengoopta, “Glandular Politics,” 455. For the articulation of this argument by Ernst Rüdin in 1904, see Herrn, “On the History of Biological Theories,” 38-39.

<sup>115</sup> SchA, Klimmer NL, folder: HE-DDR, Rudolf Klimmer, “Die Homosexualität,” April 30, 1947, 3 of document. Before reinventing himself as a proponent of enlightened attitudes towards homosexuality after 1945, Bürger-Prinz had “advanced his career under Nazism by promoting theories of homosexuality as a deficit of heterosexual vitality.” Herzog, *Sex after Fascism*, 34.

<sup>116</sup> SchA, Klimmer NL, folder: HE-DDR, Rudolf Klimmer, “Die Homosexualität,” April 30, 1947, 3 of document.

necessary to maintain the association between gender inversion and homosexuality in order to substantiate the congenital nature of a homosexual orientation.<sup>117</sup> Klimmer acknowledged the Hirschfeldian viewpoint that “absolute exemplars of the sexes are only fabricated abstractions” and that everyone had some attributes, “even if only minimal ones,” commonly associated with the opposite sex. At the same time, however, he insisted that homosexuals were more likely than heterosexuals to have bodily and mental characteristics that were typical of the opposite sex, and that the association between same-sex sexual orientation and gender dissonance typically manifested itself before puberty.<sup>118</sup> For Klimmer, the linkage between same-sex sexual and gender inversion was not an invention of modern sexology. Instead, he was convinced that “the congruence of manifestations of homosexuality and the parity of homosexual life in primitive and cultured peoples, among all races and strata of society, is remarkably extensive.”<sup>119</sup> One of the most salient markers of this cross-cultural commonality was gender inversion. For instance, African speakers of Swahili and numerous Native American tribes had formulated a vocabulary to account for the coexistence of female sensibility and male

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<sup>117</sup> In this respect, Klimmer was less willing to challenge the association of gender inversion and homosexuality than some of his sexological predecessors had been. “Confronted with medical discourses that constructed the homosexual male as useless, sick, and effeminate, in the 1880s the physician and naturalist Gustav Jaeger (1832-1917) attempted to construct a countervailing model of the sexual health and exceptional virility of the ‘deviant’ male. [...] He considered any desire healthy that was directed toward another person rather than the self [...] What made a person’s sexual desire normal was not its procreative and familial function, but its function in forging a bond to another human being, and through them to society at large.” Jaeger’s ideas served as the inspiration for Benedict Friedländer’s theory of “physiological friendship” and for Hans Blüher’s ideas about the “male society” (*Männerbund*) as ideal-typical forms of same-sex eroticism. Claudia Bruns, “The Politics of Masculinity in the (Homo-)Sexual Discourse (1880-1920),” *German History* 23, no. 3 (2005), Special Issue: Sexuality in Modern German History, 306-320, here 308-310, 313-314.

<sup>118</sup> SchA, Klimmer NL, folder: HE-DDR, Rudolf Klimmer, “Die Homosexualität,” April 30, 1947, 3, 5 of document. Klimmer’s inconsistent stance echoed that of Hirschfeld and Freud. For Hirschfeld, see Steakley, “*Per scientiam ad justitiam*,” 144; for Freud, see Erin G. Carlston, “‘A Finer Differentiation’: Female Homosexuality and the American Medical Community, 1926-1940,” in *Science and Homosexualities*, 177-196, here 179.

<sup>119</sup> Klimmer, *Die Homosexualität als biologisch-soziologische Zeitfrage*, 161.

corporeality in one and the same person.<sup>120</sup> While Klimmer embraced the notion of binary gender inversion, however, he did not subscribe to Hirschfeld's theory that homosexuals constituted a "third sex."<sup>121</sup>

Klimmer hoped to convince his readers and interlocutors that gender deviance was *more* pronounced among female than among male homosexuals. Despite his application of the category of inversion to both male and female homosexuality, Klimmer was of the opinion that lesbians were more inclined to adopt clothing typically worn by the opposite sex than gay men were, "whereas only very few homosexual men dress in a feminine fashion." He believed that this discrepancy in the propensity for cross-dressing stemmed from women's "greater freedom" to violate gender norms and "the previously more lofty public reputation of men in bourgeois society," which meant that they had more to lose by going against societal expectations.<sup>122</sup> Intriguingly, he also suggested that for men, biological factors could potentially exert greater determinative influence over gendered characteristics than societal conditions.<sup>123</sup> If gender and sexuality were entirely socially contingent, after all, then societies might exist entirely without homosexuality—which was precisely the hope of East German authorities who viewed homosexuality as an atavistic relic of capitalism.

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<sup>120</sup> This vocabulary ranged from "mke-simume" ("woman not man" in Swahili) to "bote" ("not woman, not man" in the Crow Indian language) and berdache ("half-man, half-woman" in the Tulalip Indian language). Klimmer, *Die Homosexualität als biologisch-soziologische Zeitfrage*, 42. Social scientific "fascination with non-Western societies' accepting attitudes toward homosexuality" had become particularly salient during the 1920s and 1930s. Wake, *Private Practices*, 3; Carter, "Normality, Whiteness, Authorship," 164.

<sup>121</sup> In jettisoning the "third sex" terminology, Klimmer was following the example set during the 1920s by the WhK, which had abandoned its pre-First World War enthusiasm for this part of Hirschfeld's conceptual framework. Jason Crouthamel, "'Comradeship' and 'Friendship': Masculinity and Militarisation in Germany's Homosexual Emancipation Movement after the First World War," *Gender & History* 23, no. 1 (April 2011), 111-129, here 112, 123.

<sup>122</sup> Klimmer, *Die Homosexualität als biologisch-soziologische Zeitfrage*, 190, 192.

<sup>123</sup> Klimmer, *Die Homosexualität als biologisch-soziologische Zeitfrage*, 76-78.

Klimmer did not invent these ideas, but he was articulating them in a Cold War context in which West German critics accused the East German regime of masculinizing *all* women, regardless of their sexual orientation, by purportedly compelling them to enter the workforce and even engage in traditionally male occupations and by denying them the pleasures of the fashion and make-up to which Western women had access.<sup>124</sup> But Klimmer did not mention this propaganda; indeed, his gender and sexual imaginary was unencumbered by the Cold War divide. Even though Klimmer's emphasis on the societal contingency of gender norms accorded quite well with the SED's conviction that equality of the sexes (*Gleichberechtigung*) was only truly attainable under socialism, he was convinced that this principle applied to non-socialist societies as well.

Like many other sexologists, Klimmer considered male and female homosexuality to be analogous phenomena, albeit with male homosexuality serving as the norm against which female homosexuality was to be assessed.<sup>125</sup> He thus concluded that "the types of homosexual acts in which women engage largely correspond to the kinds of acts performed by men."<sup>126</sup> In Klimmer's opinion, mutual masturbation was the most common form of sex for both homosexual men and women, and for many of them, it was the only type of sexual activity in which they would engage. Oral sex came in a close

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<sup>124</sup> "In the East, female crane operators and production line workers were touted as the signs of great progress, the visible symbols of an ideology that viewed women's participation in the paid labor force as the key to their emancipation. In the West, the same images were interpreted as the signs of godless Communism that destroyed femininity and families." Eric Weitz, "The Ever-Present Other: Communism in the Making of West Germany," in *The Miracle Years: A Cultural History of West Germany, 1949-1968*, ed. Hanna Schissler (Princeton: Princeton University Press, 2001), 219-232, here 227; Gunilla-Friederike Budde, "Der Körper der 'sozialistischen Frauenpersönlichkeit': Weiblichkeits-Vorstellungen in der SBZ und frühen DDR," *Geschichte und Gesellschaft* 26, no. 4 (2000), 602-628, here 614-615, 617-618.

<sup>125</sup> Bert Hansen, "American Physicians' 'Discovery' of Homosexuals, 1880-1900: A New Diagnosis in a Changing Society," in Rosenberg and Golden, eds., *Framing Disease*, 104-133, here 106; Tracie Matysik, *Reforming the Moral Subject: Ethics and Sexuality in Central Europe, 1890-1930* (Ithaca: Cornell University Press, 2008), 153, fn 5; Marti Lybeck, "Gender, Sexuality, and Belonging: Female Homosexuality in Germany, 1890-1933" (PhD diss., University of Michigan, 2007), 25.

<sup>126</sup> Klimmer, *Die Homosexualität als biologisch-soziologische Zeitfrage*, 187.

second.<sup>127</sup> Intercrural sex was far less common, and the least common form of lesbian sex (at least according to Klimmer) involved the insertion of a dildo into the vagina. Klimmer rejected the notion of women as less sexually driven than men. Indeed, he was convinced that pseudohomosexuality was more common among women than among men since “apparently women are less afraid or repulsed by members of their own sex than men are.”<sup>128</sup> Furthermore, he maintained that supposedly “frigid” women who were not desirous of sexual activity in a heterosexual relationship were “not infrequently homosexual, whether consciously or not.”<sup>129</sup>

When it came to the question of the status of homosexuality as pathology, Klimmer and Mette were speaking at cross-purposes to one another. Somewhat surprisingly, Mette opined that the distinction between the “normal” and “diseased” in sexual matters was a relative one. Ironically, he believed that Klimmer upheld this distinction as absolute in order to preserve the integrity of his hallowed dichotomy of “normal” heterosexuality and “abnormal” homosexuality as non-overlapping categories of sexual predilection.<sup>130</sup> In other words, Mette challenged Klimmer’s privileging of biological factors as not lending sufficient credence to environmental influences (i.e., that degenerate societies were conducive to the emergence of degenerate forms of sexuality)

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<sup>127</sup> Klimmer was following the example set by Casper, who maintained that same-sex sexuality “did not require anal penetration, [and] was often confined to embraces and mutual masturbation,” and by Ellis, who “sought to normalize male homosexuality by rendering it acceptable to a wider audience, downplaying its association with effeminacy and anxiously stressing the rarity of anal intercourse as a sexual practice.” Oosterhuis, “Homosexual Emancipation in Germany Before 1933,” 12; Rita Felski, “Introduction,” in *Sexology in Culture*, 1-8, here 4.

<sup>128</sup> Klimmer, *Die Homosexualität als biologisch-soziologische Zeitfrage*, 188.

<sup>129</sup> Klimmer, *Die Homosexualität als biologisch-soziologische Zeitfrage*, 189.

<sup>130</sup> BArch Berlin-Lichterfelde, DQ1 2129, MfG, HA Wissenschaft, Berlin, Gutachten über das Manuskript Dr. med. Rudolf Klimmer *Die Homosexualität*, signed by Alexander Mette, December 29, 1956, 2 of document, 295 of archival file.

even as he criticized Klimmer's notion of biology (or least of health and disease) as being too relativistic.

Like Hirschfeld, Klimmer maintained that earlier experts had clung to the disease model because they had only encountered homosexuals as psychiatric patients.<sup>131</sup> He also believed in the importance of heeding the viewpoints not only of fellow experts, but also the self-perception of homosexuals:

Homosexuals do not consider themselves to be sick and hardly ever seek medical attention for their predisposition (*Veranlagung*). Those who do so usually have another reason. They require treatment only because of adverse societal influences, legal and societal persecution, and blackmail. No experienced psychiatrist today would still consider trying to change someone's sexual orientation.<sup>132</sup>

Klimmer was doubtlessly aware that this last statement—that psychiatry no longer had any interest in “curing” homosexuality—was untrue. Ultimately, he acknowledged (if only to dismiss) the multifarious attempts to eliminate same-sex sexual desire. Castration did nothing to change someone's sexual orientation and only occasionally diminished someone's sex drive, with deleterious psychological consequences. Hypnosis and psychoanalysis would inevitably fail since “homosexuality is deeply rooted in one's entire personality and not an acquired neurosis.”<sup>133</sup> Implantation of “normal” hormonal glands was similarly futile.<sup>134</sup> But terms such as “pathogenesis” and “disturbance” remained part of Klimmer's diagnostic vocabulary.<sup>135</sup>

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<sup>131</sup> For Hirschfeld's view on this issue, see Steakley, “*Per scientiam ad justitiam*,” 147.

<sup>132</sup> SchA, Klimmer NL, folder: HE-DDR, Rudolf Klimmer, “Die Homosexualität,” April 30, 1947, 5 of document; Klimmer, *Die Homosexualität als biologisch-soziologische Zeitfrage*, 68.

<sup>133</sup> SchA, Klimmer NL, folder: HE-DDR, Rudolf Klimmer, “Die Homosexualität,” April 30, 1947, 6 of document.

<sup>134</sup> Klimmer thus implicitly critiqued the efforts of his predecessors Eugen Steinach (1861-1944) and Hirschfeld to find a hormonal cure for homosexuality. Ramsey, “Rites of *Artgenossen*,” 92; Evans,

Professor Kurt Schneider, who led the neurological clinic at the University of Heidelberg in the FRG, considered homosexual conduct to be both immoral *and* a disease in need of a cure. In fact, he believed that gay men should receive “an injunction to undergo therapy [...] [if they] have been granted a reprieve from punishment.” Klimmer retorted that just because the sexual acts of gay men deviated from those of the “overwhelming majority” did not mean that they were intrinsically immoral (*unsittlich*) or pathological.<sup>136</sup> By asserting that homosexuality was not a “problem” in need of punitive measures or a “cure,” Klimmer defied the logic of professional self-assertion whereby medical experts sought to assume jurisdiction over the “problem” of deviance.<sup>137</sup> His authority as an “objective” expert was instead directed towards releasing homosexuals from both juridical *and* therapeutic control. Like U.S. sex researcher Evelyn Hooker, Klimmer felt that increased focus on well-balanced homosexuals who were not entangled with the criminal justice system would help to remove the taint of pathology and deviance from homosexuality.<sup>138</sup>

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“Decriminalization,” 570. Belief in the possibility of a psychotherapeutic cure for homosexuality was still widespread among psychological and medical experts providing expert testimony to the West German Penal Code reform commission during the 1950s, although almost all of these experts agreed that a hormonally induced cure was *not* possible. Schäfer, *Widernatürliche Unzucht*, 134.

<sup>135</sup> Kowalski, *Homosexualität in der DDR*, 21-22.

<sup>136</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Rudolf Klimmer, Dresden, to Kurt Schneider, Direktor der Universitäts-Nervenlinik Heidelberg, October 27, 1956.

<sup>137</sup> In the late 1960s, Polish psychiatrist T. Bilikiewicz accused Klimmer of having abandoned the quest for a cure because of his fatalistic attitude about its prospects for success. SchA, Klimmer NL, folder: Sonderdrucke, T. Bilikiewicz, “Schlußbemerkungen zur Diskussion—in Beantwortung der Bemerkungen Klimmers und Leonhards” [the original article under discussion was authored by Bilikiewicz and appeared in *Psychiatrie, Neurologie und medizinische Psychologie* 20, no. 1 (1968), 10-13],” *Psychiatrie, Neurologie und medizinische Psychologie* 21, no. 7 (1969), 275-278, here 277.

<sup>138</sup> Klimmer, *Die Homosexualität als biologisch-soziologische Zeitfrage*, 3. Evelyn Hooker (1907-1996) was an American psychologist who began publishing studies of male homosexuality in the 1950s that sought to debunk the prevalent association of homosexuality with mental illness and social maladjustment. She built upon Magnus Hirschfeld’s and Alfred Kinsey’s work by studying gay men who were not patients who had come to seek her professional help. Like Klimmer, she sought to balance her identity as an objective researcher with her compulsion to intervene in public affairs. Although I have no evidence that

But Klimmer followed his sexological forebears in upholding the category of the “perverse.” Indeed, he argued that the intercourse-like acts practiced by homosexuals were *not* “perverse” because they bore a greater resemblance to their heterosexual counterparts than they did to “perverse” acts such as transvestism, sadism, and masochism.<sup>139</sup> Klimmer and Giese agreed that the distinction between what was or was not perverse should be contingent upon the likelihood that a sexual practice would be conducive to the development of “we-ness” (*Wirheit*)—in other words, a relationship based upon love and mutuality that was not reducible to its sexual component.<sup>140</sup> According to this logic, perversions disrupted a person’s personality and ultimately resulted in disappointing sexual experiences. By contrast, homosexuality, like heterosexuality, was a salutary complement to one’s personality and was thus conducive to sexual satisfaction. The criterion of emotional fulfilment thus supplanted moral condemnation and pathologization in Klimmer’s distinction between salutary and harmful forms of sexual expression.<sup>141</sup>

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Klimmer and Hooker corresponded with one another, their studies dovetail in intriguing ways, and point to the need for research on the differential impact of “progressive” scientific views in both capitalist and state-socialist contexts. For more on Hooker, see Minton, *Departing from Deviance*, 220-235; Evelyn Hooker, “Reflections on a 40-Year Exploration: A Scientific View of Homosexuality,” *American Psychologist* 48 (1992), 450-453.

<sup>139</sup> Klimmer, *Die Homosexualität als biologisch-soziologische Zeitfrage*, 73. In positing an affective equivalence between homosexuality and heterosexuality, Klimmer was once again following Hirschfeld’s example. See Steakley, “*Per scientiam ad justitiam*,” 148.

<sup>140</sup> Klimmer, “Diskussion: Schlußwort zu ‘Die strafrechtliche Verantwortung für homosexuelle Handlungen,’” 253. In response to Schelsky’s contention that male homosexual relationships were ephemeral, Klimmer noted that he knew of “many homosexual relationships that last for years” and that there would be many more such relationships if legal and societal discrimination against homosexuality were to be abrogated. Klimmer, Rezension von Helmut Schelsky, *Soziologie der Sexualität*, 146-147.

<sup>141</sup> Klimmer, *Die Homosexualität als biologisch-soziologische Zeitfrage*, 73. In other parts of his oeuvre, Klimmer was less sanguine about the beneficial attributes of homosexuality. For instance, he characterized many homosexual men as neuropaths whose psychic lability stemmed from the disharmonious coexistence of virile and feminine aspects of their personality and the everyday difficulties that resulted from this discordance. Gay men were purportedly also more subject to depression, deficient concentration, and a diminished capacity to exercise willpower. This catalog stemmed from Klimmer’s desire to provide a thorough overview of research findings, but it also reflected his lingering ambivalence about the

Mette agreed with Klimmer that the problems faced by gay men deserved more attention, but he would not go as far as Klimmer did in highlighting the political *bona fides* of East German homosexuals who had been honored as “activists” or suggesting that individuals who persecuted homosexuals most ruthlessly were doing so in an attempt to suppress their own homosexual inclinations.<sup>142</sup> In other words, pointing out that gay men could be good Communists was for Mette yet another sign of Klimmer’s lack of “objectivity.”<sup>143</sup> What Mette did not say—at least not explicitly—was that Klimmer relied upon the patina of “objective” science so as to efface his own personal stake in the matter. Like Magnus Hirschfeld, Klimmer felt compelled to hide his own sexual orientation in order to secure the requisite distance from his subject matter and thereby burnish his credibility as an expert. Despite his impassioned language, his expertise rested upon his professional qualifications, and not his status as an actual or potential victim of the criminal sanctions and societal discrimination against which he fought.<sup>144</sup>

Already in 1948, Klimmer was repeatedly thwarted in his attempts to publish his work in SBZ periodicals such as *Urania*, *Die Weltbühne* (*The World Stage*), and *Das*

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relationship between homosexuality and pathology. SchA, Klimmer NL, folder: Sonderdrucke, Rudolf Klimmer, “Die strafrechtliche Verantwortlichkeit für homosexuelle Handlungen,” *Der medizinische Sachverständige* 54, no. 10 (October 1958), 210-215, here 213.

<sup>142</sup> BArch Berlin-Lichterfelde, DQ1 2129, MfG, HA Wissenschaft, Berlin, Gutachten über das Manuskript Dr. med. Rudolf Klimmer *Die Homosexualität*, signed by Alexander Mette, December 29, 1956, 296 of archival file, 3 of document.

<sup>143</sup> BArch Berlin-Lichterfelde, DQ1 2129, MfG, HA Wissenschaft, Berlin, Gutachten über das Manuskript Dr. med. Rudolf Klimmer *Die Homosexualität*—Anhang, undated, 300 of archival file, 3 of document. This comment on Mette’s part was in response to Klimmer’s discussion of a case of a young man between the ages of eighteen and twenty-one who had been charged with exploiting a relationship of dependence to engage in mutual masturbation with a younger male. Klimmer made a point of noting that the defendant had received a Youth Activity Award (*Jugendaktivabzeichen*), was politically active, and had a good reputation overall.

<sup>144</sup> Günter Grau maintains that the open secret of Klimmer’s homosexuality and his insistent championing of homosexual rights undermined his claim to objectivity and his desire to balance his scientific pursuits with his activism in the eyes of the SED more generally, and not just of Mette. Grau, “Ein Leben im Kampf,” 60-61.

*deutsche Gesundheitswesen (The German Health Care System)*.<sup>145</sup> Despite these setbacks, Dr. Rolf Helm, the State Prosecutor for Greater Berlin and the Director of the German University for Law (*Deutsche Hochschule der Justiz*) in Potsdam-Babelsberg, reassured Klimmer in 1949 and again in 1951 that his book manuscript, which then bore the title *Die homosexuelle Liebe (Homosexual Love)*, would be published with minimal delay so that it could be used by the Legal Committee of the *Volkskammer* during its deliberations on a new Penal Code.<sup>146</sup> But the censors denied permission to publish in 1950, and again in 1951.<sup>147</sup>

At around the same time, the editorial board of the periodical *Neue Justiz (New Justice)* led by Wolfgang Weiß admonished Klimmer that

[t]he point of a scientific description is not to set up a unity front of all those who side with one's own viewpoint. On the contrary, I think that it is also necessary to draw a clear dividing line in your area of specialization between what is really scientific and what only refers to itself as such.<sup>148</sup>

Weiß challenged Klimmer's scientific objectivity because of their fundamental disagreement over the very definition of the word "scientific." For Weiß, being "scientific" meant "harmoniz[ing] psychological research with the principles of

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<sup>145</sup> Grau, "Ein Leben im Kampf," 48. The *Urania* editorial staff noted its reluctance to draw renewed attention to an issue that had been "a hot-button political issue of the first order during the Hitler era." See Kowalski, *Homosexualität in der DDR*, 17-18.

<sup>146</sup> SchA, Klimmer NL, folder: Auszüge aus Briefen, wenn nichts anderes vermerkt, an Dr. med. Rudolf Klimmer über Homosexualität und § 175 StGB (hereafter folder: Auszüge aus Briefen), letters from Rolf Helm, Generalstaatsanwalt von Gross-Berlin, z. Zt. Direktor der Deutschen Hochschule der Justiz, Potsdam-Babelsberg, to Rudolf Klimmer, Dresden, May 14, 1949, November 8, 1949, December 22, 1949, and February 9, 1951.

<sup>147</sup> McLellan, *Love in the Time of Communism*, 117.

<sup>148</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Redaktion der Zeitschrift *Neue Justiz* to Rudolf Klimmer, Dresden, April 6, 1950. Weiß' editorial tenure at *Neue Justiz* lasted from 1947 until 1952, at which point he transferred to a new position at the Institute for Legal Studies in Potsdam-Babelsberg. Ute Schneider, *Hausväteridylle oder sozialistische Utopie?: Die Familie im Recht der DDR* (Cologne: Böhlau, 2004), 90, fn 130.

dialectical materialism” and avoiding frequent reference to the decidedly non-dialectical notion of a “soul.” Incredibly, Weiß contended that Klimmer offered “no opinion on the subject of how homosexuality is to be explained,” and that “[t]he standpoint from which you approach these fundamental questions thus remains unclear.”<sup>149</sup> Klimmer’s standpoint was of course far from “unclear,” but it deviated from what Weiß took to be the “scientific” line on the subject. This consensus crystallized quite rapidly in Weiß’ mind since just one year earlier he had recognized that there had been “no clear stance” (*keine klare Linie*) on the criminal status of male same-sex erotic behavior in no small part due to the lack of agreement among self-proclaimed experts regarding its etiology.<sup>150</sup>

Mette let Klimmer’s manuscript languish for so long that it had become, in Klimmer’s own estimation, outdated.<sup>151</sup> But despite his numerous reservations about Klimmer’s approach to the subject of homosexuality, Mette ultimately was reluctant to censor Klimmer’s monograph entirely.<sup>152</sup> Instead of publishing it as a widely accessible book, however, he recommended that it appear in a limited print run accessible only to

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<sup>149</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Redaktion der Zeitschrift *Neue Justiz* to Rudolf Klimmer, Dresden, April 6, 1950.

<sup>150</sup> Wolfgang Weiß, “Anmerkung: In welcher Fassung sind die §§ 175 and 175a StGB anzuwenden,” *Neue Justiz* 3, no. 6 (1949), 145-147. Whatever Weiß’ reservations about Klimmer’s opinions might have been, Klimmer was able to publish an article on homosexuality, “Die Homosexualität und ihre Bestrafung,” in *Neue Justiz* in 1950. It was supposed to have been the first part of a series that never materialized. Kowalski, *Homosexualität in der DDR*, 18-19. After Minister of Health Karl Linser received an offprint of this *Neue Justiz* article, he even extended an offer of collaboration to Klimmer: “Perhaps we can work together someday on scientific projects.” SchA, Klimmer NL, folder: Auszüge aus Briefen, letter from Karl Linser, Leiter der HA Gesundheitswesen, MfAuG, Berlin, to Rudolf Klimmer, Dresden, June 13, 1950.

<sup>151</sup> SchA, Klimmer NL, folder: Schriftwechsel Dr. med. Klimmer, vorwiegend Reformvorschläge, den § 175 betreffend, ab 1947 fortlaufend (hereafter folder: Schriftwechsel Dr. med. Klimmer), letter from Rudolf Klimmer, Dresden, to an unspecified addressee (a professor), undated.

<sup>152</sup> While Olaf Brühl notes that the East German government did not grant the Greifenverlag permission to publish Klimmer’s monograph in 1958, he does not take into account the role in this outcome played by Klimmer’s personal dispute with the publisher and Mette’s recommendation for a limited release of Klimmer’s manuscript. See Olaf Brühl, “Sozialistisch und schwul. Eine subjektive Chronologie,” in Setz, ed., *Homosexualität in der DDR: Materialien und Meinungen*, 89-152, here 98-99, 107.

professionals concerned with sexual matters.<sup>153</sup> Experts, Mette presumed, would be more discerning than the general populace about what he saw as Klimmer's lack of objectivity and yet would still profit from the book's contribution to the scholarly debate about homosexuality. This was a continuation of earlier thinking that works on sexual matters, even if they were of a scientific bent, should be limited to a professional readership so as to avoid providing titillation for the prying eyes of the broader public.<sup>154</sup> Karl Dietz, editor-in-chief at the Greifenverlag, did not challenge Mette's recommendation. Indeed, Dietz even identified Greifenverlag's *Das aktuelle Traktat* (*The Up-to-Date Treatise*), a book series that had a limited print run of 1,000-1,500 copies and was read primarily by professionals concerned with sexual matters, as a suitable forum for Klimmer's tome.<sup>155</sup>

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<sup>153</sup> BArch Berlin-Lichterfelde, DQ1 2129, MfG, Abteilung (hereafter Abt.) Wissenschaft, Sekretariat, letter from Karl Dietz, Greifenverlag zu Rudolstadt, to Alexander Mette, MfG, Berlin, undated but from December 1956-April 1957. According to Josie McLellan, in 1962 the Ministry of Culture reiterated Mette's exhortation for limiting access to Klimmer's manuscript to an audience of medical professionals; McLellan, *Love in the Time of Communism*, 117, drawing upon BArch Berlin-Lichterfelde, DR1 5010, 25.

<sup>154</sup> Bland, "Trial by Sexology," 189; Laura Doan, "'Acts of Female Indecency': Sexology's Intervention in Legislating Lesbianism," in *Sexology in Culture*, 199-213, here 200.

<sup>155</sup> BArch Berlin-Lichterfelde, DQ1 2129, MfG, Abt. Wissenschaft, Sekretariat, letter from Karl Dietz, Greifenverlag zu Rudolstadt, to Alexander Mette, MfG, Berlin, undated but from December 1956-April 1957; BArch Berlin-Lichterfelde, DQ1 2129, MfG, HA Wissenschaft, Berlin, Gutachten über das Manuskript Dr. med. Rudolf Klimmer *Die Homosexualität*, signed by Alexander Mette, December 29, 1956, 4 of document, 297 of file. The Greifenverlag "had a record of left-wing sexual education literature dating back to the Weimar era," and it was due to the tenacity of Dietz and his colleagues that "[t]he sex reform movement continued to have a muted influence in the world of [East German] publishing." McLellan, *Love in the Time of Communism*, 116 (first quotation), 7 (second quotation), 167, drawing upon Carsten Wurm, Jens Henkel, and Gabriele Ballon, *Der Greifenverlag zu Rudolstadt 1919-1993: Verlagsgeschichte und Bibliographie* (Wiesbaden: Harrassowitz Verlag, 2001), 35, 47-49. Other works with sexual themes that were published as part of *Das aktuelle Traktat* include Rudolf Neubert, *Die Geschlechterfrage: Ein Buch für junge Menschen* (Rudolstadt: Greifenverlag, 1956 and numerous subsequent editions); Rudolf Neubert and Rudolf Weise, *Das sexuelle Problem in der Jugendziehung* (Rudolstadt: Greifenverlag, 1956); Rudolf Neubert, *Das neue Ehebuch* (Rudolstadt: Greifenverlag, 1957); Rudolf Neubert, *Fragen und Antworten zum neuen Ehebuch* (Rudolstadt: Greifenverlag, 1961); Hans Grimm and Hans-Dieter Rösler, *Kinder fragen nach dem Geschlechtsleben* (Rudolstadt: Greifenverlag, 1957).

Klimmer, for his part, reacted to Mette's verdict by saying, "Typical for him. He is worried about people becoming enlightened."<sup>156</sup>

On April 2, 1957, Dietz informed Klimmer of the governmental censorship board's decision not to grant permission to publish his manuscript in the GDR, whether for a limited or general audience.<sup>157</sup> It is not clear whether Dietz contested this decision, but he did have a reputation with the state authorities as "a publisher who defends the most outlandish manuscripts the most stubbornly."<sup>158</sup> The very next day, Klimmer informed Dietz that he was soliciting offers from a West German publisher, but he still hoped to receive the indemnity that Dietz had promised him for his labors. The ensuing financial disagreement led to an estrangement between Klimmer and Dietz.<sup>159</sup> Klimmer published his book with the Kriminalistik Verlag of Hamburg in 1958, and he released a revised edition from the same publisher in 1965.

Did publication of Klimmer's book help to change attitudes within the East Germany psychiatric profession? Helmut Rennert, Professor of Psychiatry at the Martin Luther University of Halle-Wittenberg, agreed with "many of [Klimmer's] main points,

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<sup>156</sup> SchA, Klimmer NL, folder: Briefwechsel/Grabrede, letter from Rudolf Klimmer, Dresden, to Ludwig Renn, February 7, 1957.

<sup>157</sup> This rejection occurred despite the fact that Klimmer had undertaken numerous rounds of revision and had garnered the support not only of the Greifenverlag but also of the Division of Art and Literature in the Saxon Ministry of Education. Kowalski, *Homosexualität in der DDR*, 24. This decision deviated from a longstanding pattern whereby German governmental authorities before 1933 were less likely than their counterparts elsewhere in Europe to censor works that addressed homosexuality; see Beachy, "German Invention of Homosexuality," 820. It was perhaps because of this legacy that Karl Dietz and Peter G. Hesse explicitly invoked Klimmer's book in their sexological reference work, *Wörterbuch der Sexuologie und ihrer Grenzgebiete* (Rudolstadt: Greifenverlag, 1964).

<sup>158</sup> McLellan, *Love in the Time of Communism*, 117, drawing upon BArch Berlin-Lichterfelde, DR1 5015, 28, Böhm to [Helmut] Ostmann, May 29, 1957.

<sup>159</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Rudolf Klimmer, Dresden to Karl Dietz, Greifenverlag zu Rudolstadt, July 19, 1959. The disagreement was ostensibly of relatively limited duration, however. According to a source consulted by Josie McLellan, Dietz continued his efforts to secure permission for the Greifenverlag to publish Klimmer's book until at least 1962; McLellan, *Love in the Time of Communism*, 117, drawing upon BArch-Berlin Lichterfelde, DR1 5010, 25.

and went so far as to observe that “this assiduously compiled work would be very valuable for laypeople and particularly for police officers and jurists” because of its implications for the crafting and implementation of legal provisions. But Rennert also harbored reservations. While he praised “the writing style and numerous references to the literature” as “quite moderate in tone,” he nonetheless felt that “everything evidently is deployed towards the same goal: a justification of homosexuality,” and that it was precisely for this reason that “some of [the book] [...] could somewhat alienate psychiatrists.”<sup>160</sup>

During the height of Pavlovian fervor, Klimmer had struggled to assert the ongoing validity of expertise deriving from the “bourgeois” strands of the psychological sciences. He hoped that the aura of scientific legitimacy conferred by his status as a psychiatrist would serve as the primary bulwark against accusations of partiality. By the end of the 1950s, after enthusiasm for the Pavlovian paradigm had faded, it was two of the most prominent members of his own profession in East Germany—Alexander Mette and Helmut Rennert—who challenged his claim to objectivity precisely because his conclusions went against their self-understandings as psychiatrists. It turned out that Klimmer had good reason to remain ambivalent about the emancipatory potential inherent in a scientific approach to homosexuality.

For Karl-Heinz Mehlan, Acting Dean of the medical faculty at the University of Rostock and one of the GDR’s foremost proponents of the discipline of social hygiene, the problem with Klimmer’s book was quite different, namely, that it neglected the

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<sup>160</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Helmut Rennert, Direktor der Klinik und Poliklinik für Psychiatrie und Neurologie, Martin-Luther-Universität Halle-Wittenberg, to Rudolf Klimmer, Dresden, January 8, 1960.

concerns of professionals *beyond* the discipline of psychiatry. Mehlan complained that Klimmer's "book pays insufficient attention to social hygienic, sociological, and criminological aspects of homosexuality, which can certainly contribute more to the analysis of this problem than biological or psychological aspects of the origin of homosexuality."<sup>161</sup> Like Mette, Mehlan felt that Klimmer did not lend enough credence to the notion that homosexuality was the result of habituation rather than a congenitally determined form of behavior:

I cannot with absolute conviction agree with your contention regarding the obligatory nature of the development of homosexuality. To the extent that I have an overview of the pertinent psychiatric, sexological, and psychological literature, I cannot avoid the conclusion that it is equally evident that a relatively large proportion of homosexuals owe their disposition to psychiatric or psychological causes.<sup>162</sup>

In referring to "psychiatric or psychological causes," Mehlan was doubtlessly employing a euphemism for acquired neuroses, but he was also contradicting himself. He criticized Klimmer for privileging the psychological sciences over other disciplines even as he excoriated Klimmer for discounting psychological insights when it came to the etiology of homosexuality. Even though Mehlan disagreed with many of Klimmer's points, he agreed with Rennert that Klimmer's ideas deserved a wider audience:

As far as your manuscript ["Ursachen der Homosexualität," or "Causes of Homosexuality"] is concerned, I would like to grant myself the right to ask why you have not offered it to GDR publishers, since it is only through a discussion of the matter in our professional press that the problem can become of pressing importance.<sup>163</sup>

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<sup>161</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Karl-Heinz Mehlan, Universität Rostock, to Rudolf Klimmer, Dresden, December 17, 1959.

<sup>162</sup> Ibid.

<sup>163</sup> Ibid.

Mehlan did not realize that at least on this matter, he and Klimmer were in complete agreement. Even as Klimmer was thwarted in his efforts to publish in the GDR, there were preeminent figures like Mehlan and Rennert who joined Mette in challenging Klimmer's ideas but who nonetheless believed that Klimmer's views deserved an East German professional audience.<sup>164</sup>

Klimmer's efforts to build a network of professional contacts extended beyond the borders of the GDR. Günter Grau purports that while Klimmer's book received favorable reviews in West Germany, most West German sexual researchers—most notably Giese—kept their distance, in large part for the same reason that Alexander Mette did: Klimmer's ostensible lack of scientific impartiality.<sup>165</sup> But as in the GDR itself, Klimmer's work provoked a variety of responses on the part of his colleagues in the rest of the German-speaking world. In a West German competition held in 1960 to determine the best new work on homosexuality from a medical perspective, Klimmer lost to Giese. C. M. Hasselmann, who headed the Academic Advisory Council of the German Society for Sexual Research, invited Klimmer to submit another manuscript for the 1962 competition only if he had "something really new and scientifically worthwhile" to contribute rather than "summaries of what has long been known [...], [which] have no

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<sup>164</sup> In correspondence with an unnamed professor, Klimmer recounted that after Mette had rejected Klimmer's article "Die strafrechtliche Verantwortlichkeit für homosexuellen Handlungen," Klimmer published it in a 1958 edition of the West German journal *Der medizinische Sachverständige* instead (full citation in footnote 138). SchA, Klimmer NL, folder: Schriftwechsel Dr. med. Klimmer, letter from Rudolf Klimmer, Dresden, to an unspecified addressee (a professor), undated. The professor with whom Klimmer had been corresponding was also astounded at Klimmer's lack of success in finding publication venues for his work in the GDR.

<sup>165</sup> Grau, "Ein Leben im Kampf," 62-63.

chance whatsoever of being awarded a prize.”<sup>166</sup> In other words, for Hasselmann, the greatest weakness of Klimmer’s work was its lack of originality rather than its lack of objectivity. But what Hasselmann failed to acknowledge was that the synthetic nature of Klimmer’s magnum opus was intended at least in part to preserve and interpret the legacy of pre-1945 sexology for an East German polity that was decidedly inhospitable to new sexological endeavors.

In contrast, Swiss psychiatrist Theodor Bovet praised Klimmer for the comprehensiveness of his overview of existing research on homosexuality. He also found compelling Klimmer’s rejection of a simplistically monocausal view of the etiology of homosexuality in favor of a nuanced approach that took into account the relative weight of nature versus nurture for each individual. Bovet was less convinced by what he took to be Klimmer’s unwarranted nonchalance regarding the possibility of seduction into homosexuality for adolescents. He warned that Klimmer’s “appraisal of homosexuality was perhaps too positive,” but he nonetheless believed that

[i]t would be a felicitous development if this book enabled doctors, theologians, and jurists to delve more deeply into this problem and if it thereby fomented public discussions. (This has already happened here and there.) It is also noteworthy that homosexuals themselves deem this to be the best book of its kind, even though the author is certainly not homosexual himself.<sup>167</sup>

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<sup>166</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from C. M. Hasselmann, Direktor der Universitäts-Klinik und Poliklinik für Haut- und Geschlechtskrankheiten, Erlangen, und Leiter des Wissenschaftlichen Beirats der Deutschen Gesellschaft für Sexuallforschung, eine wissenschaftliche Gesellschaft im Gesamtverband Deutscher Nervenärzte, to Rudolf Klimmer, Dresden, January 12, 1961.

<sup>167</sup> SchA, Klimmer NL, folder: Schriftwechsel Dr. med. Klimmer, Theodor Bovet, Rezension von *Die Homosexualität als biologisch-soziologische Zeitfrage* (1958 edition), *Schweizer Archiv für Neurologie, Neurochirurgie und Psychiatrie* 88, no. 2 (1961), 1<sup>st</sup> and 3<sup>rd</sup> pages of unpaginated transcript.

While Bovet echoed Mette in suggesting that the book's primary audience should consist of professionals, he differed from Mette in hoping that the professional discourse would have ramifications in the broader public sphere. Significantly, Bovet considered the favorable assessment of Klimmer's book by homosexuals to have been another indication of the work's intrinsic value.

Klimmer's professional gaze was not only directed westward. He successfully cultivated a professional relationship with psychiatrist Dr. Kurt Freund, a steadfast supporter of homosexual rights in Prague. Freund gratefully received Klimmer's monograph in 1959 and invited Klimmer to deliver a short paper on legal questions regarding sexuality in the Soviet Union and Soviet Bloc at a conference that he was organizing.<sup>168</sup> Like Klimmer, Freund sought to debunk the notion of seduction, particularly of working-class youth, by dissolute "bourgeois" men. Freund pointed out that in countries like East Germany and Czechoslovakia, those engaged in "bourgeois" professions now often stemmed from a working-class milieu and thus either avoided the taint of the bourgeoisie's moral decay or no longer felt the erotic frisson of seducing someone of lower social standing.<sup>169</sup>

Klimmer also engaged with the transnational network of homosexual rights activists, most notably through *Der Kreis*, the signature periodical of the international homophile movement that was published in Switzerland from 1932 until 1967.<sup>170</sup> His

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<sup>168</sup> SchA, Klimmer NL, folder: Schriftwechsel Dr. med. Klimmer, letter from Kurt Freund, Psychiatric Research Institute, Prague, to Rudolf Klimmer, Dresden, December 22, 1959.

<sup>169</sup> SchA, Klimmer NL, folder: Schriftwechsel Dr. med. Klimmer, letter from Rudolf Klimmer, Dresden, to Kurt Freund, Psychiatric Research Institute, Prague, March 5, 1960.

<sup>170</sup> For more information on *Der Kreis*, see Hubert Kennedy, *The Ideal Gay Man: The Story of Der Kreis* (Binghamton, NY: Haworth Press, 1999); Karl-Heinz Steinle, *Der Kreis: Mitglieder, Künstler, Autoren* (Berlin: Verlag Rosa Winkel, 1999); Clayton Whisnant, "Styles of Masculinity in the West German Gay Scene, 1950-1965," *Central European History* 39, no. 3 (2006), 359-393, here 383.

interest in this magazine did not elude East German customs officials, who seized his copy of the journal in 1955 while it was en route to him.<sup>171</sup> The customs officials had the support of Dr. Bruck at the Health Ministry, who deemed that

*Der Kreis* only serves to propagate the homosexual mindset (*Propagierung des homosexuellen Gedankens*) and is in no way useful for scientific purposes. In your capacity as a neurologist and in marriage and sexual counseling, you no doubt have to occupy yourself with the problem of homosexuality, albeit not on the basis of propaganda tracts, but instead by making use of scientific literature. This scientific literature, however, is not being made available to you in this magazine.<sup>172</sup>

But when Klimmer tried to carry out scientific research of his own, he also faced the objection of a research commission that, as Dr. Bruck admitted, “does not deem work on this topic to be necessary.” Dr. Bruck struck a conciliatory note when he remarked that “[i]t is gratifying to learn that three of your writings on homosexuality have been published, and that you continue to work on this question.”<sup>173</sup> Thus government officials’ ostensible rejection of Klimmer’s endeavors as superfluous could go hand-in-hand with qualified praise.

Klimmer did not cancel his subscription to *Der Kreis*, and he found himself having to defend his right once again to receive it in May 1956:

It is a mistake on your part to assume that *Der Kreis* is a propaganda tract. Indeed, to characterize it as such is conceivable because propaganda is directed towards those who think differently in an attempt to win them over whereas *Der Kreis* is only written for like-minded individuals. This homosexual monthly

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<sup>171</sup> Censorship of publications like *Der Kreis* was by no means unique to the GDR. For a chronicle of the International Homophile World Organization’s (IHWO) struggle against such censorship in the FRG, see Raimund Wolfert, “*Gegen Einsamkeit und ‘Einsiedelei’*”: *Die Geschichte der Internationalen Homophilen Welt-Organisation* (Hamburg: Männerschwarm Verlag, 2009).

<sup>172</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Bruck, MfG, HA Wissenschaft, Berlin, to Rudolf Klimmer, Dresden, October 17, 1955.

<sup>173</sup> Ibid.

magazine is important for my medical practice because as an outsider I need to be aware not only of scientific findings but also of the psychological attributes of this group. I deal with homosexuals not only in my capacity as a forensic expert in court but also in my work as a marriage and sexual counselor. *Der Kreis* also often contains writings by doctors and jurists, reports on court sentencing decisions, penal code reforms in other countries and other interesting articles that are of great value for my scientific work. The importance of the magazine *Der Kreis* is underscored by the fact that an Institute for Sexual Research has not yet been reestablished in the GDR. The Institute for Sexology was destroyed by the Nazis in 1933. Scientific sexological literature about sexology does not yet exist again in the GDR.<sup>174</sup>

While Klimmer referred to himself as an “outsider” to the homosexual community, he also defended his right to receive *Der Kreis* by characterizing it as intended only for “like-minded individuals” so as to parry the accusation that it was a form of homosexual “propaganda” that might be conducive to the spread of homosexual behavior. He emphasized that his professional interaction with gay men occurred both in the courtroom and at the clinic, and thus—like the editors of *Der Kreis*—he could not draw a clear line between political advocacy and scientific objectivity. And he reminded officials that since the East German government had done nothing to restore the institutional support for sexology that the Nazis had decimated, it could at least facilitate rather than hinder Klimmer’s access to sexological research performed elsewhere. Klimmer’s multifaceted appeal did nothing to change the Central Office for Scientific Literature’s determination that *Der Kreis* could not be construed as scientific literature.<sup>175</sup>

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<sup>174</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Rudolf Klimmer, Dresden, to Paket-Kontrollamt Dresden, May 27, 1956.

<sup>175</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Götz, Direktor der Zentralstelle für wissenschaftliche Literatur, to Rudolf Klimmer, Dresden, June 8, 1956.

The transnational homophile movement of which *Der Kreis* was an integral part was able to transcend, albeit in limited ways, the Cold War divide.<sup>176</sup> Klimmer was not only a recipient of the periodical, but also a contributor. He authored an article in a 1957 issue of *Der Kreis* about the “effeminate homosexual” that demonstrated his alignment with the international homophile movement’s preoccupation with “respectable” masculinity. When addressing a non-homophile audience in 1947, Klimmer had criticized the Nazi-era writings of Bürger-Prinz for condemning the effeminacy of homosexuals as nothing more than a superficial form of gender performance that stemmed from weakness and a desire for attention. In *Der Kreis*, however, Klimmer agreed with Bürger-Prinz’s condemnation of “aunts” (*Tanten*). Even though an effeminate gay man did not choose to be womanlike, he could still exert control over his public gender performance. Indeed, “he has the duty to behave as inconspicuously as possible in public, not to let his hair down (*sich gehen zu lassen*) and above all not outwardly project his feminine demeanor.” Even if gay men confined their sexual activity to the private realm, Klimmer argued, they would still meet with widespread moral disapprobation if they failed to confine their flamboyant behavior to venues outside of the public eye.<sup>177</sup>

It was not difficult to find zealous defenders of respectable masculinity in the ICSE and nationally based homosexual rights organizations.<sup>178</sup> But this reification of an idealized version of masculinity did not go uncontested within the homophile movement.

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<sup>176</sup> *Der Kreis* owed its relative longevity and cosmopolitanism to its location in multilingual Switzerland, where it was presumably less susceptible to the deleterious impact of nationally based forms of censorship designed to curb or eliminate allegedly indecent publications. I am thankful to Helmut Puff for pointing out to me the importance of the location of *Der Kreis*’s editorial headquarters.

<sup>177</sup> SchA, Klimmer NL, folder: Publikationen von Dr. med. Rudolf Klimmer über Homosexualität, Rudolf Klimmer, “Der frauenhafte Homosexuelle,” *Der Kreis* XXV, no. 2 (1957); Kennedy, *Ideal Gay Man*, 173.

<sup>178</sup> Churchill, “Transnationalism and Homophile Political Culture,” 37, 39-40.

Appended to Klimmer's article was a comment by Rolf (a pseudonym for the editor of *Der Kreis*, Karl Meier) that rendered in a more positive light the contributions made by effeminate gay men to society in fields such as hairstyling, fashion, theater, and film:

Women would still be wearing braided pigtaileds and their hair in a bun and walking around in boring clothes if the fantasy of many homoerotically inclined men (*Homoeroten*) did not create a steady stream of new and enchanting transformations of women's appearance. And it is an open secret that girls and widows have sleepless nights because of heroes of the stage or the screen who will never touch a woman. But the world has always preferred being deceived to staring the truth in the face. So we should let them believe that effeminate homosexuals play no role in today's society. The realization of the actual contexts [in which effeminate homosexuals play a key role] would cause too many people in the bourgeois world to faint!<sup>179</sup>

While more celebratory of the societal significance of non-masculine gay men, Rolf advised them to render their gender nonconformity less visible to the public for strategic reasons, not because it was intrinsically wrong. Indeed, Rolf maintained that the effectiveness of the "queer eye for the straight woman" stemmed in large part from the delusion that the queer eye needed to remain unseen by precisely those women whose lives had been made vastly more enjoyable and stylish by taking advantage of the talent and vision of homosexuals who subverted masculine norms.

Generally speaking, however, *Der Kreis* provided Klimmer with a source of affirmation for his professional and activist endeavors. After all of the effort that he had expended to secure a publisher for his monograph, Klimmer must have been gratified to see the revised edition of it reviewed in *Der Kreis* in 1965. And already in 1949, Klimmer received a letter from Kinsey, who had learned through a staff member at *Der*

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<sup>179</sup> Klimmer, "Der frauenhafte Homosexuelle." My identification of the author behind the pseudonym Rolf is based upon Churchill, "Transnationalism and Homophile Political Culture," 39.

*Kreis* that Klimmer was interested in the Kinsey Institute's research on human sexual behavior. In July 1950, Kinsey thanked Klimmer for having sent an offprint of one of his articles on homosexuality, which he promised to "read [...] through as soon as possible."<sup>180</sup> This correspondence resumed in the wake of Alfred Kinsey's untimely death in August 1956, when Klimmer wrote to the Institute to ask, among other things, about the prevalence of anal sex between men and women in the United States; the new Kinsey Institute Executive Director Paul Gebhard confirmed Klimmer's understanding that it was "extremely uncommon" and generally viewed only as an "experiment or a novelty."<sup>181</sup> In the absence of a domestic commitment to sexology, Klimmer found other resources to augment the scientific basis of his counseling endeavors.

Klimmer was also curious whether the Institute engaged in or knew of studies that employed the new technique of genetic skin swabs to ascertain the hereditary aspects of homosexuality; Gebhard replied in the negative, but was motivated to contact other researchers to inquire about the possible existence of such research.<sup>182</sup> Even though Gebhard believed that a child was born with amorphous gender and sexual inclinations, this did not mean that a child necessarily "evolved" from a state of mixed heterosexual

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<sup>180</sup> SchA, Klimmer NL, folder: Briefwechsel Dr. Klimmer mit Alfred C. Kinsey bzw. seinem Institute for Sex Research, letters from Alfred Kinsey, Bloomington, Indiana to Rudolf Klimmer, Dresden, September 30, 1949 and July 10, 1950.

<sup>181</sup> SchA, Klimmer NL, folder: Briefwechsel Dr. Klimmer mit Alfred C. Kinsey bzw. seinem Institute for Sex Research, letter from Paul Gebhard, Bloomington, Indiana to Rudolf Klimmer, Dresden, October 1, 1956.

<sup>182</sup> SchA, Klimmer NL, folder: Briefwechsel Dr. Klimmer mit Alfred C. Kinsey bzw. seinem Institute for Sex Research, letter from Paul Gebhard, Bloomington, Indiana, to Rudolf Klimmer, Dresden, November 6, 1956.

and homosexual inclinations to an exclusively homosexual orientation.<sup>183</sup> Klimmer had just acquired more evidence regarding the impregnability of a person's sexual orientation.

Klimmer also wondered whether Gebhard worried about the potential ““harm”” (*Schaden*) that homosexuality could cause. Once again, Gebhard confirmed what Klimmer already believed, namely that homosexuality was not intrinsically harmful, but that a homosexual living in a society that condemned his sexual orientation and practices could suffer deleterious legal, societal, psychological, and emotional consequences. Such opprobrium could elicit such emotional responses as fear and guilt, or compel a homosexual man to embark upon a heterosexual marriage that was doomed to fail or make both partners miserable. Gebhard's assurance that many gay men managed to avoid emotional, legal, or societal harm through “discreet conduct” (*diskretes Betragen*) provided Klimmer with even more reason to resort to the politics of respectability.<sup>184</sup>

It did not take Klimmer long to ensure that his monograph *Die Homosexualität als biologisch-soziologische Zeitfrage* found its way onto the shelves of the Kinsey Institute's library, and Gebhard thanked Klimmer for what he deemed to be an “enrichment” of the library's collection.<sup>185</sup> He also lobbied the Institute to publish a review of his book, but Gebhard turned down this request given the Institute's policy of not reviewing monographs or articles given the time and effort involved and the likelihood of pointed critique fomenting resentment on the part of researchers who were

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<sup>183</sup> SchA, Klimmer NL, folder: Briefwechsel Dr. Klimmer mit Alfred C. Kinsey bzw. seinem Institute for Sex Research, letter from Paul Gebhard, Bloomington, Indiana, to Rudolf Klimmer, Dresden, January 23, 1957.

<sup>184</sup> SchA, Klimmer NL, folder: Briefwechsel Dr. Klimmer mit Alfred C. Kinsey bzw. seinem Institute for Sex Research, letter from Paul Gebhard, Bloomington, Indiana, to Rudolf Klimmer, Dresden, November 13, 1957.

<sup>185</sup> SchA, Klimmer NL, folder: Briefwechsel Dr. Klimmer mit Alfred C. Kinsey bzw. seinem Institute for Sex Research, letter from Paul Gebhard, Bloomington, Indiana, to Rudolf Klimmer, Dresden, August 25, 1959.

otherwise sympathetic to the work of the Institute.<sup>186</sup> In 1968, the Institute enlisted Klimmer for advice regarding a three-year-long study that Alan Bell, Martin Weinberg, and Gebhard were preparing to conduct involving 1,100 homosexuals (white and black, male and female) in the San Francisco area. The study focused on the impact of homosexuals' experiences with family members and therapists as well as etiological aspects of homosexuality. To this end, the Kinsey Institute wanted to be informed about the nature of Klimmer's own research on homosexuality, the people with whom he had consulted, and his suggestions for shaping and improving the San Francisco-based study—indeed, the trio of researchers even extended an invitation to Klimmer to meet with them in person to discuss these matters.<sup>187</sup> Given the restrictions placed upon travel for East Germans, it is unlikely that such a meeting ever transpired, but it is significant that like Klimmer, the Kinsey Institute sought to expand its network beyond and in spite of the Cold War divide.

Perhaps emboldened by the positive reception that his book received outside of the GDR, the ever-persistent Klimmer sought to reestablish contact with Dietz in 1962 when he was working on a second edition of his book for the Kriminalistik Verlag in Hamburg. Klimmer admitted to Dietz that “[w]e unfortunately had differences of opinion, which I very much regret, regarding my book.” While he conceded that “[i]t is unfortunately not possible to publish a book like mine at the present time in the GDR[,] [o]ne could nonetheless try to obtain permission to publish a purely biological book about

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<sup>186</sup> SchA, Klimmer NL, folder: Briefwechsel Dr. Klimmer mit Alfred C. Kinsey bzw. seinem Institute for Sex Research, letter from Paul Gebhard, Bloomington, Indiana, to Rudolf Klimmer, Dresden, November 25, 1959.

<sup>187</sup> SchA, Klimmer NL, folder: Briefwechsel Dr. Klimmer mit Alfred C. Kinsey bzw. seinem Institute for Sex Research, letter from Alan P. Bell, Senior Psychologist; Martin S. Weinberg, Senior Sociologist and Paul H. Gebhard, Director, Kinsey Institute for Sex Research, Bloomington, Indiana, to Rudolf Klimmer, Dresden, October 16, 1968.

homosexuality that does not address the question of its punishment as a crime.” Klimmer continued to regret the absence of literature in the GDR on homosexuality, and he still hoped that he could fill this lacuna.<sup>188</sup>

Dietz passed away in August 1964, and Klimmer tried in 1967 to convince Dietz’s successor to publish his book, albeit to no avail.<sup>189</sup> In retrospect, Klimmer did not consider his decision to pursue publication options in the FRG to have been a “forbidden act,” although he did receive a “warning” at the time from the Ministry of Internal Affairs because he had not secured its permission to seek out a West German publisher. Beyond “heated exchanges,” however, “there were no further repercussions.” Indeed, when Klimmer distributed copies of his newly published book, the East German Ministry of Health, Ministry of Justice, and Supreme Court acknowledged receipt of them with gratitude.<sup>190</sup> Klimmer’s decision to publish in the FRG was not unusual for East German medical professionals in the 1950s. Indeed, doing so was a badge of prestige for East Germany’s most prominent doctors. Since the GDR government tried to block access to Western scientific literature, however, it was effectively depriving East German doctors

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<sup>188</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958 folder, letter from Rudolf Klimmer, Dresden to Karl Dietz, Greifenverlag zu Rudolstadt, April 8, 1962. In light of Klimmer’s failed quest to publish his book in the GDR, it is striking that Kurt Freund was able to publish his own tome on homosexuality in German translation with an East German publisher just a few years later in the 1960s: Kurt Freund, *Die Homosexualität beim Mann*, 2<sup>nd</sup> ed. (Leipzig: Hirzel Verlag, 1965 [1963]). Freund’s monograph received a positive review in the East German press: Hans Hinderer, “Dr. med. Dr. Sc. Kurt Freund, *Die Homosexualität beim Mann*,” *Neue Justiz* 20, no. 22 (1966), 704, as noted by Kowalski, *Homosexualität in der DDR*, 35.

<sup>189</sup> SchA, Klimmer NL, folder: Schriftwechsel Klimmer mit DS, Behörden, Vorgesetzten über seine Veröffentlichungen und der Versuch der Anwendung restriktiver Maßnahmen, 1967-1974, letter from Wenig, Chefredakteur, Greifenverlag zu Rudolstadt, to Rudolf Klimmer, Dresden, June 23, 1967.

<sup>190</sup> SchA, Klimmer NL, folder: Schriftwechsel Klimmer mit DS, Behörden, Vorgesetzten über seine Veröffentlichungen und der Versuch der Anwendung restriktiver Maßnahmen, 1967-1974, letter from Rudolf Klimmer, Dresden, to Lippmann, Obermedizinalrat, Dresden, April 15, 1974; Derra, “Sexualforscher in der DDR,” 20; Steakley, “Gays under Socialism,” 16.

of direct access to research findings even though it had funded that research with the goal of having it benefit the practice of medicine within the country's own borders.<sup>191</sup>

Curiously, it was after the decriminalization of same-sex sexual acts in 1968 that Klimmer faced the most overt challenge from governmental officials. In 1974, Klimmer responded to an apparent summons for an interrogation by noting that he had always trumpeted the progressive stance of the GDR, Czechoslovakia, and Poland and that he had published eleven articles in East German periodicals between 1946 and 1972 while working at two polyclinics and serving as an expert witness in trials regarding sexual offenses. After the Nazis had prevented him from pursuing an academic career, he hoped that he would not encounter obstacles to his work in the GDR—especially after the Free German Workers' Trade Union League (*Freier Deutscher Gewerkschaftsbund*) had recognized his victimization on political grounds during the Third Reich. Instead of having to undergo a humiliating interrogation, Klimmer thought that he would receive accolades for his longstanding and wide-ranging professional engagement.<sup>192</sup>

## Conclusion

My analysis of Klimmer's place in the evolving climate of the East German psychological sciences reveals the challenges that he faced in his quest to revive the spirit of "progressive" Weimar-era sex reform. But it also demonstrates how the question of what might count as "progressive" had been fundamentally transformed by the tangled web of continuities and discontinuities in psychiatric, sexological, criminological, and

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<sup>191</sup> Ernst, *Die beste Prophylaxe ist der Sozialismus*, 295.

<sup>192</sup> SchA, Klimmer Nachlass, folder: Schriftwechsel Klimmer mit DS, Behörden, Vorgesetzten über seine Veröffentlichungen und der Versuch der Anwendung restriktiver Maßnahmen, 1967-1974, letter from Rudolf Klimmer, Dresden, to Lippmann, Obermedizinalrat, Dresden, April 15, 1974.

eugenic thinking before and after 1933. According to Richard Wetzell, “the German criminological discourse of the 1920s and 1930s was characterized by a central tension between the hereditarian biases of most psychiatrists and an increasing methodological and conceptual sophistication that promoted a complex view of the interaction of heredity and environment.” It was precisely because of this ongoing tension that “the triumph of genetic determinism under the Nazi regime was not as complete as has often been supposed.”<sup>193</sup>

The SED also drew upon both biological and social constructionist ways of thinking. In embracing its own version of social constructionism, namely the notion that sexual deviance would inevitably disappear under the influence of socialism, the SED was rejecting not only the instrumentalization of scientific inquiry for murderous ends of the National Socialists, but also Hirschfeld’s hereditarian logic that had supported the claim that homosexuals did not deserve the opprobrium of criminal punishment and societal ostracization. The temporary Pavlovian detour in the psychological sciences during the 1950s made it clear, however, that the socialist penchant for “materialism” could be quite easily reconciled with biological determinism. Klimmer thus needed to oppose social constructionism of both the National Socialist and Communist varieties but also rescue hereditarian thinking from its National Socialist and Pavlovian shackles.

As the next chapter will reveal, Klimmer’s campaign was a political one as much as it was a scientific one. Through his engagement with *Der Kreis* and the Kinsey Institute, Klimmer cultivated a transnational network in order to challenge the prevailing

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<sup>193</sup> Peter Becker and Richard F. Wetzell, “Introduction,” in *Criminals and Their Scientists: The History of Criminology in International Perspective*, eds. Peter Becker and Richard F. Wetzell (New York: Cambridge University Press, 2006), 1-22, here 19-20.

“motherhood-eugenics consensus” in postwar sex reform in *both* German states. Klimmer’s positioning lends credence to recent skepticism regarding the supposedly hasty “retreat to respectability” on the part of mid-twentieth-century homophile movement adherents.<sup>194</sup> The politics of respectability was not the outcome of a craven failure to engage societal discrimination head-on but instead reflected a strategic choice for engaging with the broader public given the prevalence of homophobic attitudes. As Martin Meeker maintains, “for the homophile movement to assert its difference and promote a separate queer world would have been to demand what, in fact, they already possessed: separate *and* unequal social status. By fighting for equal civil rights [...] [it] was [actually] daring, aggressive, and successful.”<sup>195</sup>

Even though Klimmer did not explicitly self-identify as an adherent of the homophile movement, he also deployed respectability as a political tactic in order to shift attitudes regarding the transgressive nature of homosexuality and reach out to those who continued to suffer from societal stigmatization. Like homophiles in the West, Klimmer downplayed the “sex in homosexual subjectivity.”<sup>196</sup> And by cultivating contacts in both the sexological and homophile milieus, Klimmer demonstrated that the science of sexuality and homophile activism depended upon one another to rekindle a progressive spirit in sex reform, and that this spirit could and did transcend the political and ideological obstacles posed by the Cold War divide.

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<sup>194</sup> John D’Emilio, *Sexual Politics, Sexual Communities: The Making of a Homosexual Minority in the United States* (Chicago: University of Chicago Press, 1983), 75-91.

<sup>195</sup> Martin Meeker, “Behind the Mask of Respectability: Reconsidering the Mattachine Society and Male Homophile Practice, 1950s and 1960s,” *Journal of the History of Sexuality* 10, no. 1 (January 2001), 78-116, here 99-100 (quotation), 116; Nan Alamilla Boyd, *Wide-Open Town: A History of Queer San Francisco to 1965* (Berkeley: University of California Press, 2003), 165.

<sup>196</sup> Churchill, “Transnationalism and Homophile Political Culture,” 41.

### CHAPTER 3. NEITHER A DISEASE NOR A CRIME? CONTESTING THE LEGAL STATUS OF HOMOSEXUALITY IN THE EARLY GDR

The [East German] state should come to terms with the existence of homosexuality regardless of whether it considers this phenomenon to be desirable or not. (Dr. Rudolf Klimmer, 1958)<sup>1</sup>

Now as before, I am absolutely convinced that it is repugnant and indeed among the most offensive manifestations of government to begin sniffing around in the bedroom when it is incapable of accomplishing anything else. From time immemorial, relying upon a contrary-sexual disposition as the basis for judging someone's political worth has been one of the most unsavory aspects of political life. (Ralph Liebler, 1952)<sup>2</sup>

In the wake of Nazi Germany's defeat, the Dresden morality police raided the restaurant To Peace (*Zum Frieden*), which served as a popular meeting place for gay men and lesbians, on January 19, 1946. For these restaurant patrons, who had presumably hoped that the demise of the Third Reich would bring about a respite from the Nazis' persecution of homosexuals, it suddenly seemed as if peacetime might not be so peaceful after all.<sup>3</sup> And yet there were also glimmers of hope that change was afoot. For instance,

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<sup>1</sup> Rudolf Klimmer, *Die Homosexualität als biologisch-soziologische Zeitfrage*, 1<sup>st</sup> ed. (Hamburg: Kriminalistik Verlag, 1958), 237, as quoted in Günter Grau, "Ein Leben im Kampf gegen den Paragraphen 175: Zum Wirken des Dresdener Arztes Rudolf Klimmer 1905-1977," in *100 Jahre Schwulenbewegung: Dokumentation einer Vortragsreihe in der Akademie der Künste*, ed. Manfred Herzer (Berlin: Verlag rosa Winkel, 1998), 46-64, here 61.

<sup>2</sup> Schwules Archiv und Museum Berlin (hereafter SchA), Klimmer Nachlass (hereafter Klimmer NL), folder: Schriftwechsel Dienststellen hereafter DS), Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Ralph Liebler, Minister der Justiz in Thüringen und Mitglied der Volkskammer, Erfurt, to Rudolf Klimmer, Dresden, May 7, 1952.

<sup>3</sup> SchA, Klimmer NL, folder: Schriftwechsel Dr. med Klimmer, vorwiegend Reformvorschläge, den § 175 betreffend, ab 1947 fortlaufend (hereafter: folder: Schriftwechsel Dr. med. Klimmer), letter ostensibly from

Dr. Rudolf Klimmer (1905-1977), a Dresden-based psychiatrist, and Willy Kulaszewski, a lawyer, spoke on February 28, 1947 in Leipzig about the need to decriminalize consensual male same-sex sexual acts.<sup>4</sup> Although the event was open only to medical and legal professionals, it received coverage in the newspaper *Leipziger Zeitung* and thus became part of a larger conversation about the relationship between law and sexual morality in the Soviet Occupation Zone.<sup>5</sup> Klimmer convened a similar event two months later in Dresden in collaboration with Horst Glaser, also a lawyer, and this time, representatives from the regional government and the “antifascist” political parties were also in attendance.<sup>6</sup> In the hope of averting further raids on gay-friendly establishments, Klimmer collaborated with author Ludwig Renn and physician Dr. Rudolf Neubert in organizing a seminar entitled Sexual Development and Sexual Deviations: Sex Crimes for Dresden police officers in 1949.<sup>7</sup>

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Rudolf Klimmer, Dresden, to E. Schiffer, Leiter des Deutschen Justizverlags, Justiz- und Gesundheitswesen in der Landesverwaltung Sachsen und der Medizinisch-Juristischen Arbeitsgruppe im Kulturbund, March 4, 1946, 1 of document.

<sup>4</sup> Grau, “Ein Leben im Kampf,” 48.

<sup>5</sup> SchA, Klimmer NL, folder: Schriftwechsel Dr. med Klimmer, “Homosexualität und Justiz,” *Leipziger Zeitung*, March 13, 1947. Klimmer’s and Kulaszewski’s lectures took place at the Leipzig branch of the Cultural League for the Democratic Renewal of Germany (*Kulturbund zur demokratischen Erneuerung Deutschlands*, hereafter *Kulturbund*), a mass organization for intellectuals united in their commitment to antifascism, humanism, and restoring (East) Germany’s reputation in the world. Before 1933, it was not uncommon for discussions of homosexuality to occur within closed circles of experts so as to demonstrate professional “ownership” of sensitive subject matter. For this reason, Klimmer might not have viewed the fact that his audience consisted primarily of fellow professionals as an undue limitation upon his ability to articulate his arguments before a broader public.

<sup>6</sup> These lectures also took place at the *Kulturbund*. SchA, Klimmer NL, folder: Schriftwechsel Dr. med. Klimmer, “Homosexualität und § 175.” For a useful timeline of Klimmer’s advocacy and other relevant milestones in the history gay male life in East Germany, see Olaf Brühl, “Sozialistisch und schwul. Eine subjektive Chronologie,” in *Homosexualität in der DDR: Materialien und Meinungen*, ed. Wolfram Setz (Hamburg: Männerschwarm Verlag, 2006): 89-152, here 98-104; Karl-Heinz Steinle, “Homophiles Deutschland—West und Ost,” in *Goodbye to Berlin?: 100 Jahre Schwulenbewegung. Eine Ausstellung des Schwulen Museums und der Akademie der Künste*, eds. Andreas Sternweiler et al. (Berlin: Verlag Rosa Winkel, 1997), VI.1; Rainer Herrn, *100 Years of the Gay Rights Movement in Germany* (New York and Berlin: Goethe Institut, 1997), 28-33.

<sup>7</sup> Grau, “Ein Leben im Kampf,” 49.

The fact that such events occurred amidst the chaotic conditions of the immediate postwar years constituted at least an implicit recognition on the part of the *Kulturbund* that the “democratic renewal” of Germany would entail not only denazification on the institutional and individual level, but also a reexamination of laws whose degree of National Socialist content was up for debate. Paragraph 175 (§ 175), the law that proscribed consensual same-sex sexual acts involving adult men, had been part of the German Penal Code since 1871, and the National Socialist government expanded the scope of the law in 1935 to encompass not only intercourse-like acts (*beischlafähnliche Handlungen*) but indeed any kind of physical or sexual intimacy between men.<sup>8</sup> The process of dismantling the Nazi system of governance offered the first opportunity since the late 1920s to remove the opprobrium of legal discrimination against consensual same-sex sexual relationships. But Klimmer’s ability to espouse the repeal of § 175 in the nascent East Germany would encounter considerable challenges during the ensuing years. How did the Foucaultian network of power and discourse that had developed around sexuality in the late nineteenth and early twentieth centuries evolve in the early German Democratic Republic (GDR) given the evaporation of institutional support for sexology and the diminishing viability of the public sphere? Would it be advisable to reconceptualize what is meant by biopower under these altered sociopolitical circumstances, or perhaps jettison the term entirely?<sup>9</sup>

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<sup>8</sup> On June 28, 1935 the Nazis promulgated the revised version of § 175, which took effect on September 1, 1935. Geoffrey J. Giles, “Legislating Homophobia in the Third Reich: The Radicalization of Prosecution Against Homosexuality by the Legal Profession,” *German History* 23, no. 3 (August 2005), 339-354, here 340 and 349.

<sup>9</sup> I am grateful to Kathleen Canning and Gayle Rubin for encouraging me to rethink the applicability of biopower as a heuristic for the post-1945 period more generally, and for East German state socialism in particular.

Dagmar Herzog aptly observes that “for quite some time it was not at all self-evident what sort of sexual politics would emerge from the wreckage of 1945” in the western zones of occupation, and I contend that this insight also applies to the Soviet Occupation Zone (*Sowjetische Besatzungszone*, or SBZ).<sup>10</sup> Indeed, “despite pervasive homophobia there was a brief window of greater openness around homosexuality as well.” In the Federal Republic of Germany (FRG), this window abruptly shut when West German conservative voices increasingly trumpeted their antifascist *bona fides* by denouncing the sexual profligacy that they associated with Nazism and asserting a conservative morality that did not have a place for homosexuality.<sup>11</sup> But the reification of a traditionalist sexual morality did not occur solely in a religious milieu; it also permeated the ranks of those who supported decriminalization of homosexuality. Indeed, in 1950 the (West) German Society for Sexual Research (*Deutsche Gesellschaft für Sexuallforschung*, or DGfS) recommended that the West German *Bundesrat* (upper house of parliament) and *Bundestag* (lower house of parliament) repeal § 175 not because the statute was unjust, but because it was ineffective. Members of the organization were convinced that vigilant observance of prevailing moral standards would do more to condemn and reduce the prevalence of homosexual conduct.<sup>12</sup>

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<sup>10</sup> Dagmar Herzog, “Desperately Seeking Normality: Sex and Marriage in the Wake of the War,” in *Life after Death: Approaches to a Cultural and Social History of Europe during the 1940s and 1950s*, eds. Richard Bessel and Dirk Schumann (New York: Cambridge University Press, 2003), 161-192, here 161.

<sup>11</sup> Herzog, “Desperately Seeking Normality,” 172. Herzog draws upon Dieter Schiefelbein, “Wiederbeginn der juristischen Verfolgung homosexueller Männer in der Bundesrepublik Deutschland: Die Homosexuellen-Prozesse in Frankfurt am Main 1950/51,” *Zeitschrift für Sexuallforschung* 5 (1992), 59-73.

<sup>12</sup> Christian Schäfer, “*Widernatürliche Unzucht*” (§§ 175, 175a, 175b, 182 a.F. StGB): *Reformdiskussion und Gesetzgebung seit 1945* (Berlin: Berliner Wissenschafts-Verlag, 2006), 82-86. The DGfS’ recommendations were less “progressive” than Klimmer’s, as they did not call for rendering the age of consent equal for same-sex and opposite-sex sexual acts and made no reference to the need for greater leniency in sentencing guidelines. The DGfS also seemed untroubled by the lack of gender equity in the existing law and saw no reason to challenge the seduction hypothesis.

What distinguished the German Society for Sexual Research from those who sought to retain § 175 was not their moral valuation of homosexuality, which was uniformly negative. Instead, they disagreed on the most efficacious vehicle for enforcing ethical expectations. While the Society for Sexual Research believed in the importance of disaggregating law and morality, conservative West German Christians and neo-traditionalist East German Socialist Unity Party (SED) members alike were united in their conviction that the law should be a transparent reflection of what the latter were fond of calling the “moral views of the working people” (*Moralanschauungen der Werktätigen*). Both groups presumed these views to be profoundly conservative.<sup>13</sup>

Indeed, Klimmer did not expect his interlocutors to overcome their “instinctive aversion” to same-sex sexual activity.<sup>14</sup> In this regard he was following the example of Dr. Magnus Hirschfeld (1868-1935), who had deemed it important to emphasize the distinction between heterosexual male friendship and homosexual male eroticism so as to “avoid scaring away potential heterosexual allies of the homosexual movement.”<sup>15</sup> Klimmer, like Hirschfeld, addressed “only value judgments, and not the presuppositions underlying this way of thinking.”<sup>16</sup> Instead, Klimmer hoped that his audience would rely

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<sup>13</sup> Günter Grau, “Im Auftrag der Partei: Versuch einer Reform der strafrechtlichen Bestimmungen zur Homosexualität in der DDR 1952,” *Zeitschrift für Sexualforschung* 9 (June 1996), 109-130, here 111; Dagmar Herzog, *Sex after Fascism: Memory and Morality in Twentieth-Century Germany* (Princeton: Princeton University Press, 2005), 2.

<sup>14</sup> SchA, Klimmer NL, Rudolf Klimmer, “Die Homosexualität” (speech delivered at the *Kulturbund* in Dresden on April 30, 1947). Another version of this document, which does not contain this quotation, is located in another part of Klimmer’s *Nachlass*.

<sup>15</sup> Harry Oosterhuis, “Homosexual Emancipation in Germany Before 1933: Two Traditions,” in Harry Oosterhuis and Hubert Kennedy, eds., *Homosexuality and Male Bonding in Pre-Nazi Germany: The Youth Movement, the Gay Movement, and Male Bonding Before Hitler’s Rise* (New York: Harrington Park Press, 1991), 1-28, here 16-17. For more on Klimmer’s attempts to revive Hirschfeld’s legacy, see Chapter 2.

<sup>16</sup> Oosterhuis, “Homosexual Emancipation in Germany Before 1933,” 15. Klimmer made the strategic calculation that rallying support for decriminalization would prove to be more auspicious than challenging the attitudes that had led to the criminalization and pathologization of homosexuality in the first place. According to a survey conducted by Ludwig von Friedeburg in 1949 (ostensibly in the western zones of

upon “incorruptible objectivity and fairness” in deciding whether it was reasonable to “rob thousands of people unfairly of their freedom and subject them to social ruin, in gross violation of the basic democratic principle of the freedom of the individual.”<sup>17</sup>

## A Brief History of § 175

In 1869, the drafters of a new Penal Code for Prussia convened a panel of medical experts but blithely ignored its recommendation to decriminalize homosexuality.<sup>18</sup>

Rudolf Klimmer was very much aware of this precedent, and he hoped that East German authorities would not repeat the folly of their Prussian forebears, who were responsible for introducing § 175 into the Penal Code in 1871.<sup>19</sup> From the outset, there was disagreement regarding the range of offenses that the new law would proscribe. In 1880, the *Reichsgericht* decreed that § 175 would apply only to “lewdness contrary to nature,” i.e., sexual activity akin to copulation. It would not apply to non-intercourse-like sexual acts, which were not considered—at least as far as legislative terminology was

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occupation, although this was not explicitly specified), 48 percent of the more than 1,000 respondents considered homosexuality to be a vice (*Laster*), 39 percent viewed it as an illness (*Krankheit*), 15 percent as an acquired habit (*Angewohnheit*), and 4 percent as a natural phenomenon (*natürliche Sache*). Dietrich Treber, “Schwulsein unter dem § 175. Ein historischer Bilderbogen,” in *Schwulenbuch. Lieben, kämpfen, leben*, ed. Winfried Schwamborn (Cologne: Pahl-Rugenstein, 1983), 80-137, here 121, as quoted by Gudrun von Kowalski, *Homosexualität in der DDR: Ein historischer Abriss* (Marburg: Verlag Arbeiterbewegung und Gesellschaftswissenschaft, 1987), 26, fn 50.

<sup>17</sup> SchA, Klimmer NL, Rudolf Klimmer, “Die Homosexualität,” April 30, 1947. Much of the material in this lecture also appeared in Rudolf Klimmer, “Über das Wesen der Homosexualität,” *Psychiatrie, Neurologie und medizinische Psychologie* 1, no. 11 (1949), 341-348. In his book, Klimmer went further in claiming that even those averse to homosexuality would have to admit that it was not so harmful to society as to warrant criminal penalties and, even more provocatively, that “[h]arm to society does not in and of itself justify an action’s classification as criminal.” Klimmer, *Die Homosexualität als biologisch-soziologische Zeitfrage* (1958), 175, as quoted in Günter Grau, “Sozialistische Moral und Homosexualität: Die Politik der SED und das Homosexuellenstrafrecht 1945 bis 1989—ein Rückblick,” in *Die Linke und das Laster: Schwule Emanzipation und linke Vorurteile*, ed. Detlef Grumbach (Hamburg: MännerschwarmSkript Verlag, 1995), 85-141, here 113.

<sup>18</sup> Schäfer, *Widernatürliche Unzucht*, 28.

<sup>19</sup> SchA, Klimmer NL, folder: Homosexuelle Emanzipationsbewegung DDR in 50er Jahren (hereafter HE-DDR), Rudolf Klimmer, “Die Homosexualität,” April 30, 1947, 7-8 of document.

concerned—to be “contrary to nature.”<sup>20</sup> The question of whether or not to maintain this distinction would prove to be fraught for the duration of § 175’s existence. From 1880 until 1935, “the courts invariably required proof of anal penetration [...] and most cases were simply thrown out on the basis of denial by the accused pair.”<sup>21</sup> Despite the circumscription of punishable acts to those that involved phallic penetration, legislators repeatedly wondered whether or not to extend the criminalization of same-sex sexual acts in Germany to women. Indeed, the expansion of § 175 to members of both sexes was a feature of the 1909 Penal Code preliminary draft as well as drafts issued in 1911 and 1929.<sup>22</sup>

It is important to bear in mind that all official German Penal Code drafts—as opposed to unofficial or committee-level drafts—retained § 175 in an unmodified state prior to the GDR’s first Penal Code draft in 1952.<sup>23</sup> Indeed, the first official Weimar-era Penal Code draft issued in 1919 actually increased the severity of the punishments stipulated for same-sex sexual acts.<sup>24</sup> In 1929, the *Reichstag*’s Penal Code Commission voted to approve a committee-level (i.e., non-official) draft that revoked § 175, but this

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<sup>20</sup> Schäfer, *Widernatürliche Unzucht*, 33; Geoffrey Giles, “Legislating Homophobia in the Third Reich: The Radicalization of Prosecution Against Homosexuality by the Legal Profession,” *German History* 23, no. 3 (August 2005), 339-354, here 339. Robert Beachy and Rüdiger Lautmann, however, suggest that the decision’s use of imprecise terminology like “intercourse-like” meant that any male same-sex sexual act—including in some instances “frottage, petting, or mutual masturbation”—“that could be analogized to heterosexual intercourse was illegal.” Beachy admits, however, that in most instances the application of the law was limited to such “intercourse-like” acts as anal, oral, or intercrural intercourse. Robert Beachy, “The German Invention of Homosexuality,” *Journal of Modern History* 82, no. 4 (December 2010), 801-838, here 808-809; Rüdiger Lautmann, “Emanzipation und Repression—Fallstricke der Geschichte,” in *Lexikon zur Homosexuellenverfolgung 1933-1945: Institutionen—Personen—Betätigungsfelder*, ed. Günter Grau (Münster: LIT Verlag, 2011), 3-12, here 8.

<sup>21</sup> Giles, “Legislating Homophobia,” 339.

<sup>22</sup> Marti Lybeck, “Gender, Sexuality, and Belonging: Female Homosexuality in Germany, 1890-1933” (PhD diss., University of Michigan, 2007), 276.

<sup>23</sup> Schäfer, *Widernatürliche Unzucht*, 34.

<sup>24</sup> Glenn Ramsey, “The Rites of *Artgenossen*: Contesting Homosexual Political Culture in Weimar Germany,” *Journal of the History of Sexuality* 17, no. 1 (January 2008), 85-109, here 96.

recommendation fell on fallow political ground given the ascendancy of the nationalist Right and Center parties at the time.<sup>25</sup>

Momentum for altering § 175 resumed under National Socialism in 1935, but this time, it went in a far more punitive direction.<sup>26</sup> On June 28, 1935, the *Reichsgericht* overturned the precedent that it had set in 1880 and extended the reach of the § 175 to encompass all forms of same-sex sexual intimacy rather than only intercourse-like acts.<sup>27</sup> The Nazi regime also introduced § 175a, which stipulated stringent punishment for manifestations of homosexual conduct such as those involving coercion, profit, relationships of dependence, and sexual contacts between adults and legal minors. Even though § 175a also extended the scope of punishable same-sex sexual acts, it stemmed from a jurisprudential legacy that had favored decriminalization of homosexual acts as “victimless” crimes as long as they did not infringe upon the legal or corporeal integrity of others. This Enlightenment-imbued conceptual genealogy began with Cesare Beccaria

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<sup>25</sup> Ramsey, “Rites of *Artgenossen*,” 108.

<sup>26</sup> The literature on homosexuality under National Socialism is quite extensive. Key works include: Hans-Georg Stümke, *Homosexuelle in Deutschland: Eine politische Geschichte* (Munich: C.H. Beck, 1989), 92-131; Burkhard Jellonek, *Homosexuelle unter dem Hakenkreuz: Die Verfolgung der Homosexuellen im dritten Reich* (Paderborn: Schöningh, 1990); Michael Burleigh and Wolfgang Wippermann, *The Racial State: Germany, 1933-1945* (New York: Cambridge University Press, 1991), 182-198; Peter von Rönne, “Politische und psychiatrische Homosexualitäts-Konstruktion im NS-Staat, Teil I: Die politische Genese des Homosexuellen als Staatsfeind,” *Zeitschrift für Sexualforschung* 11, no. 2 (June 1998), 99-129; Peter von Rönne, “Politische und psychiatrische Homosexualitäts-Konstruktion im NS-Staat, Teil II: Die soziale Genese der Homosexualität als defizitäre Heterosexualität,” *Zeitschrift für Sexualforschung* 11, no. 3 (September 1998), 220-260; Andreas Pretzel and Gabriele Roszbach, eds., “*Wegen der zu erwartenden hohen Strafe...*” *Homosexuellenverfolgung in Berlin, 1933-1945* (Berlin: Verlag rosa Winkel, 2000); Todd Ettelson, “The Nazi ‘New Man’: Embodying Masculinity and Regulating Sexuality in the SA and SS, 1930-1939” (PhD diss., University of Michigan, 2002); Burkhard Jellonek and Rüdiger Lautmann, eds., *Nationalsozialistischer Terror gegen Homosexuelle: Verdrängt und ungesühnt* (Paderborn: Schöningh, 2002); Günter Grau, ed., *Homosexualität in der NS-Zeit: Dokumente einer Diskriminierung und Verfolgung*, 2<sup>nd</sup> rev. ed. (Frankfurt am Main: Fischer Taschenbuch Verlag, 2004 [1993]); Susanne zur Nieden, ed., *Homosexualität und Staatsräson: Männlichkeit, Homophobie und Politik in Deutschland 1900-1945* (Frankfurt am Main: Campus, 2005).

<sup>27</sup> Jennifer V. Evans, “*Bahnhof* Boys: Policing Male Prostitution in Post-Nazi Berlin,” *Journal of the History of Sexuality* 12, no. 4 (October 2003), 605-636, here 613. According to Lybeck, it was not so much the letter of the law as the nature of its enforcement that became more draconian in 1935. Lybeck, “Gender, Sexuality, and Belonging,” 313; Giles, “Legislating Homophobia,” 354.

(1738-1794), was developed further by Voltaire (1694-1778) and Anselm von Feuerbach (1775-1833), and manifested itself in jurisprudential practice with the issuance of the 1810 Napoleonic *Code pénal*, which had punished only those same-sex sexual acts that transpired in public, occurred because of the threat of violence, or included minors and which had been influential in the evolution of criminal law in several German states prior to 1871 as well.<sup>28</sup> Indeed, the *WhK* and other pre-1933 “progressive” sex reformers had been calling for a law akin to § 175a to *replace* § 175.<sup>29</sup> The punishment of “qualified” homosexuality had been an issue on which proponents and opponents of decriminalizing consensual adult male same-sex sexual acts could agree.

Although some cultural conservatives during the 1920s had called for criminalizing both male and female same-sex sexual acts, Nazi jurists opted to continue to limit the penal provisions of § 175 and § 175a to men.<sup>30</sup> Their assessment that “women who experienced lesbian relationships did not usually withdraw their reproductive potential from the population” was not specifically National Socialist. Furthermore, Nazi lawmakers worried that “criminalization might result in a flood of false accusations since heterosexual women’s customary intimacies with each other might be confused with sexual interactions,” even though comparable “intimacies” such as handholding now fell under the purview of § 175 for men. This did not mean that “lesbianism was desirable but only that it was not usually worth persecuting in

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<sup>28</sup> Schäfer, *Widernatürliche Unzucht*, 23-26; SchA, Klimmer NL, folder: Schriftwechsel Dr. med. Klimmer, “Homosexualität und Justiz,” *Leipziger Zeitung*, March 13, 1947. Prussia was the exception in this regard; the 1794 Prussian Civil Code (*Allgemeine Landrecht für die Preußischen Staaten*) stipulated punishment for “sodomy” and nonprocreative sexual practices regardless of the gender of the practitioners. The revised Prussian Penal Code of 1851 retained penalties for “lewdness contrary to nature” but exempted women from prosecution.

<sup>29</sup> Grau, “Im Auftrag der Partei,” 114; Schäfer, *Widernatürliche Unzucht*, 24.

<sup>30</sup> Lybeck, “Gender, Sexuality, and Belonging,” 313; Schäfer, *Widernatürliche Unzucht*, 111-113.

isolation.”<sup>31</sup> Instead, female same-sex behavior was usually disciplined in conjunction with other manifestations of “asocial” behavior. The potential consequences of homosexual conduct became much more dire when an edict was issued on November 15, 1941 that prescribed the death penalty for SS and police officers found guilty of same-sex sexual conduct, even though Geoffrey Giles notes that “the new ruling was applied rarely and inconsistently.”<sup>32</sup>

Given the lack of a clear directive from the occupation authorities after 1945, there were numerous potential courses of action: authorities at the regional and proto-national level weighed whether to adopt, modify, or abolish the existing § 175 and § 175a. On November 1, 1945, the Provincial Administration of Thüringen demonstrated its reformist zeal by restoring the less stringent, pre-1935 version of § 175 before the Allied occupation authorities had even taken a stance on the validity of National Socialist legislation in the postwar era.<sup>33</sup> Going even further, the Juridical Commission for Legislation and the Implementation of the Law, which since mid-1946 had been working on a new Penal Code, suggested on December 6, 1946 that § 175 be abolished and that § 175a be altered.<sup>34</sup>

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<sup>31</sup> Heineman, *What Difference Does a Husband Make?*, 28-29.

<sup>32</sup> Geoffrey Giles, “The Denial of Homosexuality: Same-Sex Incidents in Himmler’s SS and Police,” in *Sexuality and German Fascism*, ed. Dagmar Herzog (New York: Berghahn, 2005), 256-290, here 265-266.

<sup>33</sup> Allied directives Number 1 and Number 11 were intended to invalidate laws tainted by their association with Nazism, but § 175 and § 175a were not considered by the Allies to be among those laws. Grau, “Sozialistische Moral und Homosexualität,” 86-87.

<sup>34</sup> The commission recommended lowering the age of protection from twenty-one to eighteen and reducing the maximum potential period of incarceration from ten to five years. Grau, “Sozialistische Moral und Homosexualität,” 87-88. GDR courts would come to recognize this five-year ceiling on prison sentences for homosexual offenses. Grau, “Im Auftrag der Partei,” 112; Günter Grau, “Liberalisierung und Repression: Zur Strafrechtsdiskussion zum § 175 in der DDR,” *Zeitschrift für Sexualforschung* 15 (2002), 323-340, here 324.

Jennifer Evans maintains that “[i]n many ways, postwar [court] decisions about which version of [§ 175] should be upheld broke down along the East/West axis,” whereby judges in the SBZ were more likely than their western German counterparts to endorse the pre-Nazi version of § 175 that concerned itself only with intercourse-like acts.<sup>35</sup> While such a divide had clearly manifested itself by 1950, the outcome of cases regarding § 175 and 175a between 1946 and 1948 in the SBZ was decidedly mixed. In several decisions issued in 1946 and 1947, the Superior Court (*Kammergericht*) of Berlin repeatedly affirmed the validity of the changes made to § 175 in 1935.<sup>36</sup> And on July 1, 1948, judges at the Superior State Court (*Oberlandesgericht*) of Halle reached the same conclusion even though a different set of judges at the same court had declared the 1935 versions of § 175 and § 175a to be “typically National Socialist” and thus invalid on July 25, 1947. When the Soviet Occupation Zone’s Interior Ministry (*Deutsche Verwaltung des Innern*, DVdI) instructed police in February 1949 to implement § 175a and § 175 in their 1935 iteration, it seemed as if the nascent GDR might emulate the nascent FRG in upholding the changes to the law that had been made under National Socialist rule.<sup>37</sup>

The overall tide of SBZ judicial decision making was shifting in the direction of a rejection of the Nazi version of § 175. On September 20, 1948, the Superior State Court in Halle overcame the dissension in its own ranks and proclaimed the 1935 versions of both § 175 and § 175a to be invalid because of their “National Socialist legal content” (*nationalsozialistisches Rechtsgut*).<sup>38</sup> After the Superior Court of Berlin ruled in favor of

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<sup>35</sup> Evans, “*Bahnhof* Boys,” 615.

<sup>36</sup> Grau, “Sozialistische Moral und Homosexualität,” 87.

<sup>37</sup> Grau, “Sozialistische Moral und Homosexualität,” 96-97.

<sup>38</sup> Schäfer, *Widernatürliche Unzucht*, 76. Jim Steakley states incorrectly that § 175a was no longer in effect after this decision. Jim Steakley, “Gays under Socialism: Male Homosexuality in the German Democratic

the pre-1935 version of § 175 on February 21, 1950, the East German Supreme Court (*Oberstes Gericht*) affirmed this stance on March 28, 1950. The pre-1935 version of § 175 would henceforth be valid throughout the GDR.<sup>39</sup> Yet the Supreme Court's decision left the 1935 formulation of § 175a unchallenged, since § 175a purportedly protected societal interests such as the sexual integrity of male youth that were not tainted by their association with National Socialist authorship.<sup>40</sup> This outcome echoed the logic of the pre-1933 KPD, which had distinguished between the undesirable criminalization of adult male homosexual acts and the need for ongoing legal sanctions against same-sex sexual acts involving youth, abuse, or extortion. But the Supreme Court did not abide by the KPD's endorsement of parity in the age of protection regardless of the gender of the parties involved in a sexual act.<sup>41</sup> Instead, on March 13, 1951, the Supreme Court confirmed that the age of protection for same-sex sexual acts would remain at twenty-one, as it had been set by the 1935 version of § 175a, even though the SED had

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Republic," *Body Politic* 29 (December 1976/January 1977), 15-18, here 15. Klimmer referred to a Halle State Superior Court decision in 1949 that found the minimum sentence of six months for § 175a infractions to be a sign of typically National Socialist excess and also criticized the law's setting of the age of protection for sexual acts at twenty-one; it is not clear whether he rendered the date for this decision incorrectly or if he was referring to another case entirely. SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Rudolf Klimmer, Dresden, to Hans Hinderer, Deutsche Akademie für Staats- und Rechtswissenschaft "Walter Ulbricht" (hereafter DASR), Potsdam-Babelsberg, May 12, 1956.

<sup>39</sup> Grau, "Ein Leben im Kampf," 49; Grau, "Sozialistische Moral und Homosexualität," 98-99; Kowalski, *Homosexualität in der DDR*, 18; Jennifer V. Evans, "Decriminalization, Seduction, and 'Unnatural Desire' in East Germany," *Feminist Studies* 36, no. 3 (Fall 2010), 553-577, here 556. This decision was in stark contrast to the West German Supreme Court's decision in 1950 to uphold the 1935 versions of both § 175 and § 175a. At one point, Jennifer Evans states incorrectly that West Germany jettisoned the "Nazi version of Paragraph 175"; Evans, "*Bahnhof Boys*," 636.

<sup>40</sup> Grau, "Liberalisierung und Repression," 324; Grau, "Sozialistische Moral und Homosexualität," 97-98. The 1950 Supreme Court decision was codified into law during an October 1950 meeting that included representatives from the Ministry of Justice, State Prosecutor's Office, the Supreme Court, and regional justice ministries. Grau, "Ein Leben im Kampf," 49-50; Grau, "Sozialistische Moral und Homosexualität," 99; Grau, "Im Auftrag der Partei," 112.

<sup>41</sup> In 1929, the KPD had been the only political party to reject the *Reichstag* committee's proposal to raise the age of consent for same-sex sexual acts to twenty-one. Glenn Ramsey, "Erotic Friendship, Gender Inversion, and Human Rights in the German Movement for Homosexual Reform, 1897-1933" (PhD diss., Binghamton University, 2004), 268; Ramsey, "Rites of *Artgenossen*," 108.

established eighteen as the age of legal majority on May 17, 1950 and had retained sixteen as the age of consent for heterosexual behavior.<sup>42</sup> In 1954, the East German Supreme Court confirmed the fact that while proof of intercourse-like acts was required for a § 175 conviction, evidence of behavior akin to copulation was not necessary in order for the criteria of § 175a to be fulfilled.<sup>43</sup>

### **Privacy and the Socialist Sexual Self**

It is tempting to ascribe the closing of the window of opportunity for reform in the SBZ and GDR to the increasing Stalinization of the SED beginning in early 1948.<sup>44</sup> For the Soviet Union, Dan Healey maintains that it was actually “[d]e-Stalinization [that] brought [with it] [...] an illiberal form of sexual modernity in which science and police methods were combined to enforce, with more apparent efficiency than before, a compulsory heterosexual norm.” It is debatable, however, whether this was a necessary consequence of de-Stalinization (or, for that matter, Stalinization), since, as Healey himself notes, “[n]one of this varied that greatly from the oppression of same-sex love in the 1940s-60s in Britain, the U.S., or the Germanies.”<sup>45</sup> What was different in the Soviet Union, East Germany, and other parts of the Eastern Bloc, however, was the paradoxical

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<sup>42</sup> Lucie Frenzel and Hans Weber, *Der strafrechtliche Schutz der Persönlichkeit in der Deutschen Demokratischen Republik* (Berlin: Deutscher Zentralverlag, 1956), 117.

<sup>43</sup> Grau, “Im Auftrag der Partei,” 118.

<sup>44</sup> The literature on this subject is extensive; representative works include Andreas Malycha, *Die SED. Geschichte ihrer Stalinisierung 1946-1953* (Paderborn: Schöningh, 2000); Hermann Weber and Ulrich Mählert, eds., *Terror: Stalinistische Parteisäuberungen 1936-1953*, 2<sup>nd</sup> ed. (Paderborn: Schöningh, 2001 [1998]); Dirk Spilker, *The East German Leadership and the Division of Germany: Patriotism and Propaganda 1945-1953* (New York: Oxford University Press, 2006). For critical perspectives on the Stalinization model, see Timothy Vogt, *Denazification in Soviet-Occupied Germany: Brandenburg, 1945-1948* (Cambridge: Harvard University Press, 2000), 4; Corey Ross, *The East German Dictatorship: Problems and Perspectives in the Interpretation of the GDR* (London: Arnold, 2002), 37-38.

<sup>45</sup> Dan Healey, *Homosexual Desire in Revolutionary Russia: The Regulation of Sexual and Gender Dissent* (Chicago: University of Chicago Press, 2001), 256.

coexistence of a fear of the spread of homosexuality with the propagandistic certainty that it was an atavistic “vice of Western capitalism” and ““typical manifestation of degeneration among the ruling classes”” that was bound to dissipate under the influence of socialist society.<sup>46</sup>

According to Katrin Sieg,

the [SED’s] configuration of homosexuality in opposition to socialism [...] was a remnant of the earlier (fascist and communist) condemnation of homosexuality as a symptom of asocial attitudes, behaviors, and beliefs. It was also informed by a repressive discourse codified by Ulbricht’s ‘Ten Commandments’ [in 1958], which configured sexuality (irrespective of orientation) as a symptom of bourgeois individualism and an anti-socialist morality. [...] Gays and lesbians sat on the horns of a dilemma: defined as a community by virtue of their sexuality, they came to personify sexuality per se, and were thus subject to the anti-sexual mores governing the culture-at-large, which rested on the principle of delayed gratification and the subordination of individual happiness to economic-political exigencies.<sup>47</sup>

While this analysis certainly has merit, it overlooks the fact that there was no unitary “Marxist idiom” when it came to homosexuality in the GDR. The SED’s orthodoxy on homosexuality as a historical relic of bourgeois society would seemingly have undermined the viability of any conception of homosexuality as an unchangeable category of biologically determined difference. During the occupation years and at the inception of the GDR, however, there were numerous challenges to the assumption that homosexuality would inevitably disappear under socialist auspices. Indeed, there were

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<sup>46</sup> Grau, “Im Auftrag der Partei,” 115; Grau, “Liberalisierung und Repression,” 326.

<sup>47</sup> Katrin Sieg, “Deviance and Dissidence: Sexual Subjects of the Cold War,” in *Cruising the Performative: Interventions into the Representation of Ethnicity, Nationality, and Sexuality*, eds. Sue-Ellen Case, Susan Leigh Foster, and Philip Brett (Bloomington: Indiana University Press, 1995), 93-111, here 100; Jennifer V. Evans, “The Moral State: Men, Mining, and Masculinity in the Early GDR,” *German History* 23, no. 3 (July 2005), 355-370, here 365.

“sex liberals” who sought not only to expand the Marxist idiom regarding sexual norms, but also to circumvent it.<sup>48</sup>

Johannes Gerats, a stalwart opponent of the ongoing criminalization of consensual same-sex sexual acts involving adults who taught at the Institute for Criminology at the Humboldt University in East Berlin, issued his own challenge to the notion of a unitary and clearly defined Marxist idiom when it came to sexual morality:

Unfortunately, we do not yet possess developed ethics [*noch keine ausgebildete Ethik*], much less a clearly defined ethical stance regarding sexual relationships. There certainly are general principles, but in my opinion they do not suffice to characterize specific acts as morally objectionable. Nonetheless, I maintain that the current viewpoints of socialist morality—as long as they have been generally accepted—must be heeded. Of course, one cannot rely upon the mostly backwards-looking levels of society, but should turn to the moral views of the progressive circles of the working population.<sup>49</sup>

One could say that Gerats arrived at the same conclusion as his more doctrinaire colleagues, albeit via a discursive detour. In his assessment, after all, attitudes towards homosexuality in the “progressive circles of the working people” were as uniformly negative as in the population as a whole. But Gerats’s uncertainty about the SED’s moral compass for carnal behavior provided an opportunity for individuals like Klimmer to reclaim the “progressive” label for their own (re-)definitions of sexual morality.

Rethinking the valence of the private sphere in the GDR may help to explain the emergence of “sex liberals” like Klimmer and the tenor of their challenges to prevailing moral standards. According to Hannah Arendt, totalitarian regimes’ thorough

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<sup>48</sup> Herzog, *Sex after Fascism*, 185. Herzog traces the emergence of East German “sex liberals” to the 1960s, but the sexual liberalism of Klimmer and many of his interlocutors emerged at least a decade earlier.

<sup>49</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter fragment from Johannes Gerats, Institut für Strafrecht, Humboldt-Universität, Berlin, unspecified addressee (perhaps Klimmer?), undated but perhaps on or near November 10, 1956.

politicization of every aspect of life effectively rendered the bourgeois liberal distinction between public and private realms moot.<sup>50</sup> Arendt's thinking was in line with propaganda in West Germany that forecast the demise of an unpoliticized private sphere in the GDR. Sheila Fitzpatrick and Alf Lüdtke challenge the notion that the private sphere was completely politicized under state socialism by noting that familial bonds did not weaken in such polities. From their perspective, state socialism was actually conducive to the emergence of formal and informal types of social interaction within and beyond the household and workplace.<sup>51</sup> In other words, even if state socialist polities such as the GDR sought to impart an ideologically conformist and "socialist" imprimatur on private life, this did not mean that uniformity or conformity necessarily resulted.

Paul Betts takes this argument even further by contending that the GDR's authoritarian forms of intervention in the private sphere paradoxically served to strengthen the private sphere under a state-socialist system that was ostensibly devoted to dissolving the distinction between public and private. He thereby challenges the notion that "privacy [...] is the natural and exclusive offspring of liberalism, not least because privacy is theoretically grounded in individual liberty and a distant relationship between state and citizen." As Betts remarks, "it was precisely the relative absence of any public sphere of open debate and genuine civil society that rendered the [East German] private sphere so important and politically potent." Even though

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<sup>50</sup> Hannah Arendt, *The Origins of Totalitarianism* (La Vergne, TN: Benediction Classics, 2009 [1951]), 336.

<sup>51</sup> Sheila Fitzpatrick and Alf Lüdtke, "Energizing the Everyday: On the Breaking and Making of Social Bonds in Nazism and Stalinism," in *Beyond Totalitarianism: Stalinism and Nazism Compared*, eds. Michael Geyer and Sheila Fitzpatrick (New York: Cambridge University Press, 2009), 266-301.

the SED devoted a huge amount of state energy to integrating the private individual into the full machinery of GDR state and society, endeavouring to fully fuse I and We[,] [...] it is misleading to interpret these well-known developments as merely proof of the absence of privacy in the GDR; for if privacy really did not exist, then the state would hardly have gone to such extraordinary lengths to investigate it.<sup>52</sup>

There is much that is compelling about Betts's interpretative framework, but there are at least two facets of his conceptualization of the East German private sphere that warrant further exploration. Because the "private sphere functioned for many citizens as a cherished locus of individuality, alternative identity-formation, and/or dissent and resistance" in the GDR, Betts maintains that

[i]ts protean quality and changing boundaries were what made it so resilient and intractable, and accounts for its irrepressible political place in a state that did its best to keep its potential power under control. In the end, private life was as much a claim and assertion as a fixed place or spatial barrier.<sup>53</sup>

Even as Betts questions the efficacy of "authoritarian" attempts to undermine the private sphere, he leaves unquestioned the motivation behind East German governmental

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<sup>52</sup> Paul Betts, *Within Walls: Private Life in the German Democratic Republic* (New York: Oxford University Press, 2010), 3, 5. While other historians argue that domestic life flourished in the GDR *despite* the absence of civil society along liberal capitalist lines, Betts makes the case that the private sphere could thrive precisely *because* of the lack of civil society. Other historians who point to the resilience of the private sphere in the GDR include Donna Harsch, "Society, the State and Abortion in East Germany, 1950-1972," *American Historical Review* 102, no. 1 (February 1997), 53-84, here 55; Thomas Lindenberger, "Die Diktatur der Grenzen: Zur Einleitung," in *Herrschaft und Eigen-Sinn in der Diktatur*, ed. Thomas Lindenberger (Cologne: Böhlau, 1999), 13-44, here 25-26; Thomas Lindenberger, "Tacit Minimal Consensus: The Always Precarious East German Dictatorship," in *Popular Opinion in Totalitarian Regimes: Fascism, Nazism, Communism*, ed. Paul Corner (New York: Oxford University Press, 2009), 208-222, here 214. This insight has even emerged in scholarship that is reliant upon the heuristic of totalitarianism. Gérard Vincent, for instance, argues that because citizens in authoritarian polities lead a "double life" of outward compliance and secretive deviance, "it may be that private life, understood in the very narrow sense of a secret existence, reaches its highest pinnacle of development under totalitarian regimes." Gérard Vincent, "The Secrets of History and the Riddle of Identity," in *A History of Private Life*, volume 5: *Riddles of Identity in Modern Times*, eds. Antoine Prost and Gérard Vincent, trans. Arthur Goldhammer (Cambridge: Belknap Press of Harvard University Press, 1991), 147-184, here 147-148.

<sup>53</sup> Betts, *Within Walls*, 238.

intervention. In his schema, the SED's involvement in the private sphere stemmed *solely* from the ideological and rhetorical imperative to fuse the individual with the collective—in other words, an aim that was diametrically opposed to that of “liberal,” capitalist nation-states. But when it came to policing homosexuality, the motivations of capitalist and state-socialist governments in circumscribing the “private” were not all that different. The purported exigencies of “protecting” youth and using the criminal law as an instrument of moral sanction outweighed the Cold War ideological divide between Communism and capitalism.

If the East German private sphere was “a claim and assertion,” then what was the basis for making such claims? Betts's emphasis on the importance of “individuality, alternative identity-formation, and/or dissent and resistance” in the “resilient and intractable” East German private sphere is evocative of Alf Lüdtke's concept of *Eigen-Sinn*, which manifested itself when ordinary citizens defied conformist expectations in their everyday lives through seemingly minor, but ultimately significant, acts of intransigence.<sup>54</sup> Klimmer's campaign emanated from the kind of willful defiance in the face of attempts to dissuade or exclude him that is a hallmark of *Eigen-Sinn*. But his subject position was not merely one of subordination, since he refused to allow himself to be silenced. Thus an emphasis on Klimmer's resilience and intractability alone does not provide a sufficient explanation for the motivations behind his efforts to secure the right of “alternate identity-formation” for the homosexual community of the GDR. Indeed, his defiance stemmed from his conviction that the SED should perpetuate the Weimar-era alliance between the KPD and progressive sex reform. Part of the legacy of progressive

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<sup>54</sup> Alf Lüdtke, ed., *The History of Everyday Life: Reconstructing Historical Experiences and Ways of Life*, trans. William Templer (Princeton: Princeton University Press, 1995).

sex reform was respect for the integrity of the sexual self against unwarranted governmental infringement on individual autonomy, and this constituted a provocation to a state-socialist polity intent upon dismantling the notion of the liberal rights-bearing individual as an antiquated relic of liberal jurisprudence. Klimmer's campaign to decriminalize homosexuality in the GDR provides an important vantage point from which to complicate existing understandings of the "private" in the GDR and the extent to which evolving understandings of socialist jurisprudence accommodated nonconformist forms of private life.

A signature goal of what the SED dismissed as "bourgeois" jurisprudence was to shield citizens from the unwarranted or arbitrary intrusion of the state. This was one of the basic tenets of the liberal *Rechtsstaat*, but one that it failed to uphold when it came to laws like § 175. Klimmer effectively accused the GDR of perpetuating the failure of the "liberal" state to live up to its own principles of non-intervention when it came to respecting the right of adult gay men to engage in consensual, private sexual acts. Central to his case for repealing § 175 was his contention that homosexual conduct that remained behind closed doors and that did not involve coercion or pecuniary exchange did not pose any harm to public welfare or sensibilities and thus should be absolved from the threat of criminal sanctions. Underlying this argument was the assumption that gay men would confine their sexual behavior to the private realm if given the opportunity to do so in a lawful manner. The timing for this kind of argument, however, was not particularly auspicious. East German legislators and jurists were increasingly attuned to the threat posed by "bourgeois tendencies in [GDR] jurisprudence" and condemned such

“tendencies” with particular vehemence at a 1958 conference in Potsdam-Babelsberg.<sup>55</sup> And as Healey observes, “[e]ven those on the left who expressed tolerance of private same-sex relations among adults felt that public displays or culturally transmitted forms of such intimacies would lead to an undesirable spread of nonprocreative practices.”<sup>56</sup>

At the same time, West German critics accused the SED of putting the nail in the coffin of the liberal *Rechtsstaat* by assuming the complete congruence of individual, collective, and state interests and by exercising arbitrary, coercive power backed by Soviet military might and without the imprimatur of democratic legitimacy.<sup>57</sup> Out of this ideological quagmire, Klimmer emerged to call upon the GDR to become a sexual *Rechtsstaat* in the “liberal” sense of the word. In other words, Klimmer believed that the protection of the sexual integrity of the private sphere was not supposed to be the antithesis or unintended byproduct of socialist jurisprudence, as Betts argues, but instead one of its core tenets. Klimmer deployed the same argument in the GDR and the “capitalist” world because he felt that all polities, regardless of their ideological affinities, should affirm the integrity of the private sphere for otherwise law-abiding and inobtrusive gay men.

Given Klimmer’s intermittent attempts to tailor his arguments to East German circumstances, it is revealing that he did not try to articulate a defense of the “bourgeois”

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<sup>55</sup> Herwig Roggemann, “Das Recht als Instrument im Kampf um die Machterhaltung—die letzten Jahre der DDR,” in *Recht, Justiz und Polizei im SED-Staat*, ed. Deutscher Bundestag (Baden-Baden: Nomos Verlagsgesellschaft, 1995), 761-848, here 767; Ute Schneider, *Hausväteridylle oder sozialistische Utopie?: Die Familie im Recht der DDR* (Cologne: Böhlau, 2004), 29-30; Ralph Jessen, “Partei, Staat und ‘Bündnispartner’: Die Herrschaftsmechanismen der SED-Diktatur,” in *DDR-Geschichte in Dokumenten: Beschlüsse, Berichte, interne Materialien und Alltagszeugnisse*, 2nd ed., ed. Matthias Judt (Berlin: Ch. Links Verlag, 1998 [1997]), 27-86, here 41.

<sup>56</sup> Healey, *Homosexual Desire in Revolutionary Russia*, 112.

<sup>57</sup> Roggemann, “Recht als Instrument,” 763; Konrad H. Jarausch, “Beyond Uniformity: The Challenge of Historicizing the GDR,” in *Dictatorship as Experience: Towards a Socio-Cultural History of the GDR*, ed. Konrad H. Jarausch (New York: Berghahn, 1999), 3-14, here 3-4.

principle of a (sexual) private sphere in a state-socialist discursive register. Thus even though the SED unwittingly and paradoxically upheld the private-public distinction, the rhetorical tools for fostering this development “from below” were of decidedly “bourgeois” provenance. In 1947, for instance, the lawyer Kulaszewski, Klimmer’s fellow presenter at the *Kulturbund*, acknowledged that proponents of criminalizing same-sex sexual conduct felt strongly about the threat that such conduct allegedly posed to sexual morality, shame, and modesty. This made no sense to Kulaszewski, since he believed that the public was typically not exposed to or affected by homosexual acts. Moreover, he pointed out that there were no comparable penal sanctions for “perverse” or morally reprehensible forms of opposite-sex sexual activity as long as they occurred beyond the purview of the public gaze—in a private sphere that the law should consider to be sacrosanct.<sup>58</sup>

How might Klimmer have articulated an alternative justification for the right to sexual privacy? He did try to draw attention to the fact that other Soviet Bloc states—and in particular, Poland—had already decriminalized adult male same-sex sexual conduct. He neglected to mention, however, that Poland had reformed its law on homosexuality already in 1932, long before the Communist Party assumed power.<sup>59</sup> He could have paid obeisance to SED sensibilities by pointing that August Bebel had affirmed already in 1895 the “satisfaction of the sex drive [as] a necessity for good mental and physical

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<sup>58</sup> SchA, Klimmer NL, folder: Schriftwechsel Dr. med. Klimmer, “Homosexualität und Justiz,” *Leipziger Zeitung*, March 13, 1947.

<sup>59</sup> Klimmer praised the Penal Code of the People’s Republic of Poland not only for its decriminalization of same-sex sexual acts, but also for its consistent usage of gender-neutral designations. He was, however, still disheartened by the Polish Penal Code’s unequal treatment of male and female prostitution, with harsher penalties for the former. SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Rudolf Klimmer, Dresden, to Leipziger Subkommission Sittlichkeitsdelikte, undated but ostensibly from 1958 or thereafter.

health for both sexes” in his book *Die Frau und der Sozialismus (Woman under Socialism)*.<sup>60</sup> Paying homage to this canonical text for socialist conceptions of the intimate realm would have strengthened Klimmer’s own case for the commensurability of sexual satisfaction with socialist consciousness. During Klimmer’s formative years in Weimar Germany, numerous left-wing intellectuals had affirmed sexual freedom as “the inalienable right of every citizen.”<sup>61</sup> In 1929, for instance, Ewert, a Communist *Reichstag* member from Thüringen and member of the *Reichstag*’s Legal Committee, reputedly said, “It is immoral to deny people the right to sexual release, and to force them into the category of criminal with provisions that in practice cannot even be enforced. Invocation of the supposed sensibility of the people simply serves to mask prejudice that rejects the abnormal out of a lack of understanding and knowledge.”<sup>62</sup>

But Klimmer would have also remembered that the alliance between progressive sex-reform and pre-Stalinist Communism had been at best an uneasy one. After all, “[a]ccording to Lenin, the very notion of sexual emancipation was typical of capitalist societies and a symptom of bourgeois degeneracy. Above all, the class struggle required the suppression of individualistic sexual desires and self-sacrifice in the interests of the

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<sup>60</sup> Edward Ross Dickinson, “The Men’s Christian Morality Movement in Germany, 1880-1914: Some Reflections on Sex, Politics, and Sexual Politics,” *Journal of Modern History* 75, no. 1 (March 2003), 59-110, here 75; Gregory Carleton, *Sexual Revolution in Bolshevik Russia* (Pittsburgh: University of Pittsburgh Press, 2005), 41.

<sup>61</sup> Willem Melching, “‘A New Morality’: Left-Wing Intellectuals on Sexuality in Weimar Germany,” *Journal of Contemporary History* 25 (1990), 69-85, here 82.

<sup>62</sup> SchA, Klimmer NL, folder: Schriftwechsel Dr. med Klimmer, letter fragment of unclear provenance, undated, Betrifft: Dr. P. Sch. According to Dan Healey, “Weimar Communists had argued, with perhaps more faith in historical progress than comprehension of sexual dissent, that decriminalization [of consensual same-sex sexual acts involving adult men] would be the logical consequence of removing all ‘reactionary’ legislation on sex. The [SPD] also supported these goals but had failed to do so with the consistency of the KPD.” Healey, *Homosexual Desire in Revolutionary Russia*, 182-183.

collective.”<sup>63</sup> Nonetheless, it remains indisputable that the postwar SED had a decidedly less favorable disposition towards the notion of progressive sex reform than did its Communist Party (*Kommunistische Partei Deutschlands*, or KPD) predecessor before 1933.<sup>64</sup> The repressive policies of the Nazis and of the Soviet Union under Stalin towards homosexuality had definitely left their mark. During the early 1930s, the SPD and KPD both stigmatized the Nazis as homosexuals while distancing themselves from Marinus van der Lubbe, an ex-Communist accused of setting fire to the Reichstag building on February 29, 1933, by branding him a homosexual.<sup>65</sup> The high number of male casualties during the Second World War and the flight of East Germans to the FRG also heightened demographic concerns during the 1950s.

This chapter explores the obstacles that Klimmer faced in promulgating his ideas regarding the legal status of homosexual conduct in the GDR but also identifies

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<sup>63</sup> Gert Hekma, Harry Oosterhuis, and James Steakley, “Leftist Sexual Politics and Homosexuality: A Historical Overview,” in *Gay Men and the Sexual History of the Political Left*, eds. Gert Hekma, Harry Oosterhuis, and James Steakley (New York: Haworth Press, 1995), 1-40, here 22-23; this was also published as a special double issue of *Journal of Homosexuality* 29, no. 2-3 (1995). Gregory Carleton makes an analogous observation: “Bolsheviks, ran the stock impression, were more interested in factories and tractors than in each other. [...] In 1969 Eric Hobsbawm likely had this legacy in mind when he dismissed the idea that revolution on both the social and sexual fronts could be linked. Marxism’s record with regard to sex, sexual enlightenment, and sexual liberation was abysmal, leading him to declare in *New Society* that they were mutually exclusive.” Carleton, *Sexual Revolution*, 1.

<sup>64</sup> Ramsey, “Rites of *Artgenossen*,” 107; Healey, *Homosexual Desire in Revolutionary Russia*, 182-183; Manfred Herzer, “Communists, Social Democrats, and the Homosexual Movement in the Weimar Republic,” in *Gay Men and the Sexual History of the Political Left*, 197-226; this monograph was also published as a special double issue of *Journal of Homosexuality* 29, nos. 2-3 (1995). In Klimmer’s own estimation, however, even the KPD’s commitment had its limits: “The SPD, Democrats, and KPD supported the elimination of § 175, but one cannot say that any of these parties supported the homosexual movement.” SchA, Klimmer NL, folder: Sonderdrücke von wissenschaftlichen Arbeiten Dr. Klimmer/Diverse Zeitungsartikel über Dr. Rudolf Klimmer (hereafter folder: Sonderdrücke), Thomas Derra, “Sexualforscher in der DDR, Interview mit Dr. Rudolf Klimmer, am 11./12. Dez. 1976,” *Schwuchtel* (Spring 1977), 19-20, here 19. And even support for the repeal of § 175 was far from uniform and certainly vulnerable to anti-homosexual prejudices within the Weimar-era workers’ movement and among those on the political left more generally. Kowalski, *Homosexualität in der DDR*, 29; Healey, *Homosexual Desire in Revolutionary Russia*, 112. From a strategic standpoint, however, it was nonetheless advantageous for Klimmer to have been able to point out that the ““elimination of § 175”” was ““a longstanding and well-known socialist demand.”” Grau, “Sozialistische Moral und Homosexualität,” 92.

<sup>65</sup> Healey, *Homosexual Desire in Revolutionary Russia*, 183.

numerous allies who tried to help him overcome these impediments. He came tantalizingly close to attaining his goal of decriminalization in 1951 in the region of Saxony, only to see his hopes dashed by the centralizing aspirations of the SED. In attempting to secure recognition for gay men as victims of National Socialist persecution, he forced the party to confront a lacuna in its vision of what antifascism and denazification entailed. At a time when religious officials were seemingly preoccupied with fending off attacks from the SED and restoring the sexual moral compass that the Nazis had subverted, Klimmer found leaders within the Protestant Church who were willing to reconsider the relationship between Christian morality and secular jurisprudence. Many of the arguments articulated by Klimmer made an appearance during Penal Code reform commission deliberations even though he himself did not. There was no simple teleological progression towards reform, as legislators recommended decriminalization of consensual adult male same-sex sexual acts in the early 1950s, the preservation of the status quo in the late 1950s, and decriminalization once again when the revised Penal Code finally appeared in 1968.

### **The Reception of Klimmer's Ideas in the Political, Judicial, and Ecclesiastical**

#### **Realms**

It must have been particularly poignant for Klimmer to have received a rejection letter for his submission in 1948 to *Aufbau* (*Construction*), the flagship periodical of the *Kulturbund*, just one year after the *Kulturbund* had hosted his lectures.<sup>66</sup> Klaus Gysi, the

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<sup>66</sup> Grau, "Ein Leben im Kampf," 48. As noted in chapter 2, his submissions to a number of other SBZ periodicals were also rejected during the same year.

federal secretary of the *Kulturbund*, compounded the insult in 1951 when he wrote to

Klimmer:

After reviewing your various publications and the enclosures that you sent us, we must inform you that the questions and problems with which you are grappling do not fall under the purview of the Cultural League for the Democratic Renewal of Germany. It is for this reason that we do not find ourselves capable of offering you our viewpoint [regarding the criminalization of male homosexuality].<sup>67</sup>

Klimmer's understandable frustration over developments like this led him to relinquish his membership in the *Kulturbund*.<sup>68</sup>

Dr. Maxim Zetkin, Vice President of the German Central Administration for Health Policy in the SBZ, did not accept Klimmer's view of a congenital basis for homosexuality and its status as a naturally occurring variant of human sexuality. Instead, he ascribed its genesis to random events and equated it with pathological aberrations such as "the unhealthy predilection for polished boots, women's handkerchiefs, or cut-off braids." Zetkin opined:

I am also of the opinion that § 175 should be done away with, but I do have to tell you that we have far more urgent tasks. At some point or other we will occupy ourselves with this paragraph, which likely interests the jurists more than the doctors.<sup>69</sup>

Despite receiving such feedback, Klimmer proved himself to be indefatigable in waging an epistolary campaign both within and beyond the ranks of the SED. This

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<sup>67</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Klaus Gysi, Bundessekretär, Kulturbund zur demokratischen Erneuerung Deutschlands, Berlin, to Rudolf Klimmer, Dresden, January 29, 1951.

<sup>68</sup> Grau, "Ein Leben im Kampf," 62; Kowalski, *Homosexualität in der DDR*, 25.

<sup>69</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Maxim Zetkin, Vizepräsident der Deutschen Zentralverwaltung für das Gesundheitswesen in der sowjetischen Besatzungszone, to Rudolf Klimmer, Dresden, June 4, 1947.

correspondence reveals that Zetkin's dismissive attitude was neither universal nor hegemonic, and that supporters of decriminalizing male homosexuality espoused a diverse array of opinions and varying levels of enthusiasm for Klimmer's efforts. Even though he received repeated signals that the SED's priorities lay elsewhere, Klimmer's tenacity in advocating decriminalization stemmed from his belief that the early 1950s provided an opportunity for reform akin to that of the late Weimar period.<sup>70</sup> On October 16, 1929, the Legal Committee of the Reichstag had voted to decriminalize consensual same-sex sexual acts between adult men. Yet the impetus to eliminate § 175 never advanced beyond the committee level during the 1920s, and Klimmer was determined not to let the momentum for reform stagnate once again.

Klimmer continually pushed against the boundaries of permissible dissent in the nascent GDR, even when he was not quite sure where those parameters lay. Existing accounts—most notably those of Günter Grau—have extrapolated from the kind of negative reaction exemplified by Gysi's comments to cast the outcome of Klimmer's endeavors in a decidedly pessimistic light.<sup>71</sup> Along similar lines, Evans has written that “[u]nfortunately, Klimmer's ideas (not to mention writings) were suppressed in the East, never being allowed to guide policy or practice in the GDR.”<sup>72</sup> Both Grau and Evans

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<sup>70</sup> Grau, “Sozialistische Moral,” 100; Grau, “Im Auftrag der Partei,” 110-111; SchA, Klimmer NL, folder: Briefe Dr. Rudolf Klimmers an Prof. Mette, 1953-1957, letter from Rudolf Klimmer, Dresden, to Alexander Mette, Berlin-Niederschönhausen, December 11, 1953, 1 of document.

<sup>71</sup> Grau, “Im Auftrag der Partei,” 109-110; Grau, “Ein Leben im Kampf,” 58-59; Josie McLellan, *Love in the Time of Communism: Intimacy and Sexuality in the GDR* (New York: Cambridge University Press, 2011), 116. Like Healey, however, Grau does acknowledge that the moral condemnation of homosexuality was not unique to the GDR and instead emanated from the spirit of the times (*Zeitgeist*) that transcended national boundaries; see Grau, “Im Auftrag der Partei,” 114.

<sup>72</sup> Evans, “*Bahnhof* Boys,” 626, 635 (quotation from 626).

downplay the heterogeneity of viewpoints that existed at the time.<sup>73</sup> They also do not take into account the degree to which even functionaries at the Ministry of Justice sometimes had to struggle to make their suggestions heard and accepted by the SED's Division for Governmental and Legal Questions. The fractious dynamic between different branches of East German government stemmed from uncertainty about the role of legal parity in the relationship between the two Germanies, the threat of intra-party purges, and the efforts of the SED to assert itself within the block party system.<sup>74</sup>

The difficulties that Klimmer encountered also echoed what Herzog has called the “*longue durée* post-fascist learning processes” in postwar western Europe:

These [processes] were initially led by isolated, and often embattled, individuals in the later 1950s and early 1960s. [...] In West Germany, Jewish re-émigrés (the jurist Fritz Bauer, the sociologist-philosopher Theodor Adorno, and the historian of religion Hans Joachim Schoeps) were singularly important in articulating the case for a new sexual morality based on the values of consent and privacy.<sup>75</sup>

When Evans contends that “[t]here was no longer any room for Klimmer to lobby for the decriminalization of homosexuality on the basis of sexual choice and individual freedom,” she forecloses the possibility of a similar “learning process” having taken

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<sup>73</sup> It is not surprising that this argument has been the predominant one, since Klimmer felt similarly frustrated about the success of his campaign in retrospect. When asked whether anyone supported him in his campaign to overturn § 175, Klimmer replied, “‘Actually, no one supported me in my fight against § 175. I did everything myself.’” Derra, “Sexualforscher in der DDR,” 19. But Klimmer had been operating in an immediate postwar environment in which, for example, jurist Günter Brandt lamented in a December 1946 *Weltbühne* article that § 175 was still in effect and Paul Lange hoped in a 1947 *Leipziger Volkszeitung* article that the ferment surrounding the liberalization of the law on abortion (§ 218) would provoke a similar zeal for the reform of § 175. Grau, “Sozialistische Moral und Homosexualität,” 88; Kowalski, *Homosexualität in der DDR*, 17.

<sup>74</sup> Schneider, *Hausväteridylle*, 48-49, 102-103. Schneider's observations pertain to the crafting of the Family Law Code (*Familiengesetzbuch*, or FGB), but I would argue that they have broader applicability.

<sup>75</sup> Dagmar Herzog, “Syncopated Sex: Transforming European Sexual Cultures,” *American Historical Review* 114, no. 5 (December 2009), 1287-1308, here 1304 and fn 60.

place in the GDR as well.<sup>76</sup> Whether out of conviction, stubbornness, naiveté, or an unwillingness to abandon the rhetorical toolbox of pre-1933 homosexual reform advocates, Klimmer continued to employ a language of sexual self-determination. Officials did not invite him to participate in Penal Code reform commission deliberations, but it is nonetheless possible to discern his impact—or at the very least the impact of ideas akin to Klimmer’s own—on the legislative process. Following Michel Foucault’s history of Victorian-era sexual discourse, what looks like repression might have been something else entirely.<sup>77</sup>

Significantly, Klimmer escaped the ignominious fate of prominent gay men and advocates of tolerance for homosexuality in other countries at the time. The acclaimed British scientist Alan Turing committed suicide in 1954 after having been forced in 1952 to undergo hormonal therapy to “cure” him of his homosexuality, and many gay government employees lost their livelihoods as a result of McCarthyist anti-homosexual agitation during the 1950s in the United States.<sup>78</sup> Botho Laserstein, an outspoken West German Jewish proponent of eliminating legal and societal discrimination against gay

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<sup>76</sup> Evans, “Decriminalization,” 558.

<sup>77</sup> I am referring to Michel Foucault’s well-known argument that while the Victorian era seemed to repress sexual discourse, it was actually abetting its proliferation. Michel Foucault, *The History of Sexuality*, volume 1: *An Introduction*, trans. Robert Hurley (New York: Vintage Books, 1990). In 1956 Walter Orschekowski, the jurist who assumed a leading role in drafting new sexual offense statutes, was “certainly open to further exchange of opinion” with Klimmer and was eager to read his future publications on homosexuality. SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Walter Orschekowski, Direktor des Instituts für Strafrecht, Karl-Marx-Universität Leipzig, to Rudolf Klimmer, Dresden, September 18, 1956. And as Grau himself notes, the research group devoted to sexual offenses invoked Klimmer by name during its deliberations in 1963. Grau, “Liberalisierung und Repression,” 337.

<sup>78</sup> For more on homophobia in the United States and the United Kingdom during the mid-twentieth century, see David K. Johnson, *The Lavender Scare: The Cold War Persecution of Gays and Lesbians in the Federal Government* (Chicago: University of Chicago Press, 2004); K. A. Cuordileone, *Manhood and American Political Culture in the Cold War* (New York and London: Routledge, 2005); Thomas S. Szasz, “The Shame of Medicine: The Case of Alan Turing,” *The Freeman* 59:4 (May 2009), accessed at <http://www.thefreemanonline.org/columns/the-therapeutic-state/the-shame-of-medicine-the-case-of-alan-turing> on July 7, 2010; Naoko Wake, *Private Practices: Harry Stack Sullivan, the Science of Homosexuality, and American Liberalism* (New Brunswick: Rutgers University Press, 2011).

men, committed suicide in 1955 in the wake of a barrage of negative coverage in the conservative press, a blackmail campaign, and an investigation by the Department of Constitutional Protection, which unfairly characterized his criticism of Prime Minister Konrad Adenauer as a threat to the viability of West German democracy.<sup>79</sup>

Klimmer's message found considerable support among many of his correspondents during the SBZ period and the years immediately following the establishment of the GDR in 1949.<sup>80</sup> Key figures at the German Central Administration for Justice (*Deutsche Zentralverwaltung der Justiz*, or DZJ) and the Justice Department of the Central Secretariat of the SED reassured Klimmer that they were committed to eliminating § 175 provided that criminal sanctions remained in place for homosexual acts involving coercion, profit, taking advantage of a relationship of dependence, or underage partners.<sup>81</sup> Instead of condemning homosexual conduct as an atavistic relic of bourgeois society, these officials cast the legal proscription of such behavior as outdated. As Werner Gentz, a department head at the DZJ, put it, "This law is on par with the

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<sup>79</sup> Evans, "Bahnhof Boys," 628. For more on the history of gay men in the early years of the FRG, see Andreas Pretzel, ed., *NS-Opfer unter Vorbehalt: Homosexuelle Männer in Berlin nach 1945* (Münster, Hamburg, and London: LIT Verlag, 2002); Andreas Pretzel and Volker Weiss, eds., *Ohnmacht und Aufbegehren: Homosexuelle Männer in der frühen Bundesrepublik* (Hamburg: Männerschwarm Verlag, 2010); Clayton Whisnant, "Styles of Masculinity in the West German Gay Scene, 1950-1965," *Central European History* 39, no. 3 (2006), 359-393; Stümke, *Homosexuelle in Deutschland*, 132-171.

<sup>80</sup> The epistolary sources from Klimmer's *Nachlass* take the form of complete letters and excerpts that Klimmer appears to have transcribed himself. In some instances, he produced multiple transcripts of the same correspondence, albeit with slight differences in prose and punctuation.

<sup>81</sup> The DZJ was the SBZ-era predecessor to the GDR's Ministry of Justice. SchA, Klimmer NL, folder: Auszüge aus Briefen, wenn nichts anderes vermerkt, an Dr. med. Rudolf Klimmer über Homosexualität und § 175 StGB (hereafter folder: Auszüge aus Briefen), letter from Werner Gentz, Abteilungsdirektor, Deutsche Zentralverwaltung der Justiz, to Rudolf Klimmer, Dresden, September 9, 1948; SchA, Klimmer NL, folder: Auszüge aus Briefen, letter from Ernst Melsheimer, Generalstaatsanwalt des Obersten Gerichts, Chef der Deutschen Justizverwaltung der sowjetischen Besatzungszone, Berlin, to Landesregierung Sachsen-Anhalt, Justizministerium, December 30, 1948; SchA, Klimmer NL, folder: Auszüge aus Briefen, letter from Zentralsekretariat der SED, Abteilung Justiz, to Rudolf Klimmer, Dresden, August 11, 1948; SchA, Klimmer NL, folder: Auszüge aus Briefen, letter from Zentralsekretariat der SED, Abteilung Justiz, to Rudolf Klimmer, Dresden, May 27, 1949.

paragraphs devoted to blaspheming God, which no state prosecutor would dare to implement today.”<sup>82</sup>

Support for Klimmer’s initiative took its most concrete form in the region of Saxony. In May 1947, he asked the SED leadership in Saxony whether it would make a motion in the Saxon parliament (*Landtag*) to abolish § 175. By October 1947, the subcommittee entrusted with legislative reform in the *Landtag* asked Klimmer for his advice on how to proceed, and Klimmer conferred with Regional Court of Appeals (*Oberlandesgericht*) President Otto Weiland and Leipzig Mayor Erich Zeigner about drafting a new statute. Weiland noted that

even if one were to approve of the underlying purpose of the previous legal provision, it has contributed in no way to fighting the evil (*Übel*) [of homosexuality], and has instead created a breeding ground for blackmail that could not be any worse than it is. The consequences of this are much worse than the elements of the offense deprecated by the law, and this fact alone should necessitate the abolition [of the law].<sup>83</sup>

Weiland hereby echoed Klimmer’s contention that one did not have to approve of homosexual conduct in order to endorse its decriminalization and advanced the pragmatic argument that a law as inefficacious as § 175 deserved to be revoked.

Weiland also invoked the need for the government to respect sexual privacy:

[The abolition of the law] is necessitated by the freedom that should be granted to people to behave as they please in their personal activities in the sexual realm as in any other, as long as the activities stay within the confines of a person’s four

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<sup>82</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Werner Gentz, Abteilungsdirektor, Deutsche Zentralverwaltung der Justiz, to Rudolf Klimmer, Dresden, May 23, 1949.

<sup>83</sup> SchA, Klimmer NL, folder: Auszüge aus Briefen, letter from Otto Weiland, Oberlandesgerichtspräsident, I. Ministerialdirektor, z. Zt. Universitätsprofessor, Dresden, to Erich Zeigner, Oberbürgermeister, Leipzig, December 2, 1947. Zeigner died on April 5, 1949.

walls and do not affect the public. [This freedom] has always been recognized as self-evident for women—why not for men as well?<sup>84</sup>

The latter statement referred to the fact that women, unlike men, were not penalized for engaging in same-sex sexual acts, and was very much in line with contemporaneous calls for gender equality that would find expression in the GDR's Constitution of 1949. But it also implied that the domestic sphere should remain sacrosanct even when that domestic sphere was occupied by homosexual men. Along similar lines, Heinz Hellweg, a civil court judge in the Saxony-Anhalt town of Sangerhausen and a member of the *Volkskammer*'s legal committee, fervently believed that “a man of legal age [...] must be able to decide with whom he wants to have sex—the state has no grounds for intervention.”<sup>85</sup>

Dr. Karl Kohn, Deputy State Prosecutor in Saxony, was also concerned about the existing law's infringement upon the inviolability of the private sphere:

From the standpoint of a normal person (*normal Veranlagten*), homosexuality is an unfortunate disposition, but one that is not worthy of punishment unless its enactment occurs in a manner that encroaches upon the interests of the public (*Öffentlichkeit*). The public interest is in no way harmed when two people who are in full possession of reason act upon their sexual feelings in a way that neither provokes annoyance nor is dangerous to the public. I am convinced that the deletion of § 175 will rather cause homosexuality to diminish in significance as a

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<sup>84</sup> SchA, Klimmer NL, folder: Auszüge aus Briefen, letter from Otto Weiland, Oberlandesgerichtspräsident, I. Ministerialdirektor, z. Zt. Universitätsprofessor in Dresden to Erich Zeigner, Oberbürgermeister, Leipzig, December 2, 1947. Indeed, it was precisely the relative “freedom” of women to engage in same-sex sexual activity that Zeigner viewed as potentially being threatened by Klimmer's call for the use of gender-neutral language in the revised law: “I am of the opinion that the public in all countries has not considered it necessary to punish such acts between women. I thus do not want to complicate the reform process by introducing a new element that would lead to the extension of the scope of punishable activity. Above and beyond that, I believe that instances of taking advantage of relationships of dependence and the like are so rare among women that such cases need not be encompassed by the law.” SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Erich Zeigner, Oberbürgermeister, Leipzig, to Rudolf Klimmer, Dresden, August 25, 1948.

<sup>85</sup> SchA, Klimmer NL, folder: Auszüge aus Briefen, letter from Heinz Hellweg, Zivilrichter, Mitglied des Volkskammers (Rechtsausschuss), Sangerhausen, to Rudolf Klimmer, Dresden, October 29, 1952.

social problem. In many cases, crimes that result from the criminal status of homosexuality will dissipate. I am thinking of prostitution (*gewerbsmäßige Unzucht*) and blackmail.<sup>86</sup>

Kohn might have felt that the public should be “protected” from visible manifestations of homosexual behavior, but he also postulated that the public’s moral qualms need not find their codification in the law, at least as far as consenting adults were concerned. In November 1947, Kohn hoped that the authorities would suspend § 175 prosecutions until the ultimate fate of the law was determined.<sup>87</sup>

The existing law perpetuated another form of gender inequality in setting a higher age of protection for same-sex sexual acts involving men than it did for opposite-sex sexual acts. While taking advantage of a relationship of dependence was a punishable offense if homosexual conduct was involved, it was merely a workplace indiscretion if the liaison was of the heterosexual variety. As Klimmer observed, “women in relationships of dependence are not protected from intercourse, deflowering, and

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<sup>86</sup> SchA, Klimmer NL, folder: Auszüge aus Briefen, letter from Karl Kohn, Erster Staatsanwalt, Dresden, to Rudolf Klimmer, Dresden, August 1, 1947. More than twenty years later, the question of whether § 175 provided an incentive for blackmail remained unsettled. If Klimmer’s hypothesis that heterosexual young men seduced older gay men in order to blackmail them precisely because of the threat of criminal punishment was valid, Polish psychiatrist T. Bilikiewicz wondered during the late 1960s, then why did this phenomenon persist in Poland even after the decriminalization of consensual adult male homosexual acts in 1932? Bilikiewicz conveniently ignored the fact that the ongoing criminalization of same-sex prostitution and societal discrimination beyond the legal realm still afforded ample opportunities for extortion. SchA, Klimmer NL, folder: Sonderdrücke, T. Bilikiewicz, “Schlußbemerkungen zur Diskussion—in Beantwortung der Bemerkungen Klimmers und Leonhards” [the original article under discussion was authored by Bilikiewicz and appeared in *Psychiatrie, Neurologie und medizinische Psychologie* 20, no. 1 (1968), 10-13],” *Psychiatrie, Neurologie und medizinische Psychologie* 21, no. 7 (1969), 275-278, here 277.

<sup>87</sup> Grau, “Sozialistische Moral und Homosexualität,” 92-93. While a suspension of prosecutions did not come to pass, Jennifer Evans has found evidence that West and East Berlin courts sentenced young male prostitutes to more arduous punishments than those meted out to the adults who had solicited them. She attributes this to an implicit acceptance on the part of judges and the postwar German public at large that the prostitutes were exploiting the weaknesses of “real” homosexuals and that the latter belonged in a doctor’s office rather than a prison cell. It would thus seem as if the notion that young male prostitutes were sexual aggressors rather than the victims of adult advances permeated public opinion beyond the ranks of activists who supported the reform of § 175. Evans, “*Bahnhof Boys*,” 633-634.

pregnancy. Even blameless and seduced girls up to sixteen years of age are only protected from intercourse.” This disparity in the age of protection made no sense to Klimmer, especially given his assumption that young men were better able to defend themselves from unwanted sexual advances than young women were.<sup>88</sup> Ultimately, Klimmer hoped to dispense with the provision regarding relationships of dependence entirely. Many gay men hired their boyfriends to provide cover for their relationships, according to Klimmer, and the existence of such a statute unfairly penalized this understandable act of self-preservation and provided unscrupulous relationship partners with fodder for blackmail.<sup>89</sup>

Just as Klimmer’s lecture at the *Kulturbund* in Leipzig prompted coverage in the regional press, so did his contacts with Saxon politicians facilitate the dissemination of his viewpoints to a popular audience through the publication of an article, “On the Question of Homosexuality,” in the newspaper *Sächsische Zeitung* on August 31, 1948.<sup>90</sup> In October 1948, Saxony’s Minister of Justice Johannes Dieckmann even sent Klimmer his own proposal for a reform of § 175, noting that his ministry agreed with many of the points that Klimmer had made.<sup>91</sup> The “new” version of § 175 that Dieckmann

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<sup>88</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Rudolf Klimmer, Dresden, to Rolf Helm, Generalstaatsanwalt von Gross-Berlin, November 6 [1948?].

<sup>89</sup> SchA, Klimmer NL, folder: HE-DDR, Rudolf Klimmer, “Die Homosexualität,” April 30, 1947, 8 of document.

<sup>90</sup> Grau, “Ein Leben im Kampf,” 48-49.

<sup>91</sup> Dieckmann devised this draft even though Zeigner had already informed Klimmer that there would be no replacement for § 175 that was specific to Saxony since the SED did not countenance legal reform on a regional basis (except when it came to abortion-related statutes during the SBZ period). SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Erich Zeigner, Oberbürgermeister, Leipzig, to Rudolf Klimmer, Dresden, January 7, 1948; Grau, “Sozialistische Moral und Homosexualität,” 93-94, 96.

propounded looked very much like § 175a.<sup>92</sup> What disappeared in this proposed reformulation of the law was the sanction against consensual same-sex erotic behavior between men over the age of eighteen.<sup>93</sup>

By the beginning of 1949, Klimmer had enlisted enough support in the Saxon regional government to decriminalize consensual same-sex sexual acts involving men.<sup>94</sup> In 1951, the Saxon *Landtag* voted to repeal § 175 even though this largely symbolic move exceeded the scope of its legislative jurisdiction and was quickly rescinded by the SED.<sup>95</sup> Klimmer's frustration at the SED's obstructionist stance induced him to dissociate himself from the party.<sup>96</sup> Ralph Liebler, Minister of Justice for the region of Thüringen, had become quite pessimistic about the prospects for reform at the national level, although he did note that § 175 prosecutions were "very low in number" in Thüringen at the time.<sup>97</sup> Rolf Helm, State Prosecutor in Berlin, also tried to mitigate Klimmer's disappointment by noting that when East Berlin courts did prosecute

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<sup>92</sup> Dieckmann's proposed law called for a minimum prison sentence of six months for a man who engaged in lewdness (*Unzucht*) with another man if violence or a threat occurred, if an older person took advantage of a relationship of dependence to obtain sexual favors, if one sexual partner was over twenty-one and the other was not yet eighteen, or if material gain was involved. Offenders under the age of twenty-one could receive less than the six-month minimum sentence or be spared punishment altogether.

<sup>93</sup> SchA, Klimmer NL, folder: Auszüge aus Briefen, letter from Johannes Dieckmann, Justizminister von Sachsen, to Rudolf Klimmer, Dresden, October 23, 1948. When Dieckmann was serving as president of the *Volkskammer* five years later, he assured Klimmer that he was still "personally prepared to adopt the standpoint in this matter [i.e., the reform of § 175] that I already advanced on October 23, 1948 as the Minister of Justice in Saxony." Whether Dieckmann's advocacy would have had much of an impact in his role as the head of a largely ceremonial parliamentary body is questionable, but this does not diminish the significance of his willingness to adopt such a position. SchA, Klimmer NL, Auszüge aus Briefen, letter from Johannes Dieckmann, Präsident der Volkskammer der DDR, Birkenwerder bei Berlin, to Rudolf Klimmer, Dresden, February 26, 1953.

<sup>94</sup> Grau, "Ein Leben im Kampf," 49.

<sup>95</sup> Grau, "Sozialistische Moral und Homosexualität," 94; Ursula Sillge, *Un-Sichtbare Frauen: Lesben und ihre Emanzipation in der DDR* (Berlin: Ch. Links Verlag, 1991), 88; Kowalski, *Homosexualität in der DDR*, 19.

<sup>96</sup> Steakley, "Gays under Socialism," 16; Derra, "Sexualforscher in der DDR," 19; Grau, "Ein Leben im Kampf," 62; Kowalski, *Homosexualität in der DDR*, 25, drawing upon Manfred Herzer, "Rudolf Klimmer," *emanzipation* no. 5 (1977), 16.

<sup>97</sup> Grau, "Sozialistische Moral und Homosexualität," 99-100.

homosexual infractions, they frequently granted some degree of clemency to defendants.<sup>98</sup>

On March 28, 1950, the East German Supreme Court rejected the 1935 version of § 175, which encompassed all conceivable forms of male same-sex intimacy, as National Socialist in its legal content. But it harbored no comparable qualms about the *pre*-1935 version of the law or about § 175a, which the Nazi regime had also introduced in 1935. Even though this decision was a binding one, it did not augur the silencing of dissenting voices within the government's ranks. On June 29, 1950, for instance, officials at the headquarters of the *Freier Deutscher Gewerkschaftsbund* (Free German Trade Union League, henceforth FDGB) argued that “from the standpoint of the differential treatment of men and women in the now still-valid version of § 175 alone, this legislation is to be regarded as obsolete.”<sup>99</sup> And Götz Berger, a member of the *Zentralsekretariat* (Central Secretariat) of the *Partei Vorstand* (Executive Committee) of the SED, informed Klimmer that

[y]our reform proposal will not be ignored in consultations regarding the creation of a new Penal Code. You are surely aware that we also do not support maintaining § 175 in its current form and that our professional journal *Neue Justiz* has at least in one sense expressed an opinion that accords with your train of thought (*in den Bahnen Deiner Gedankengänge bewegt*).<sup>100</sup>

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<sup>98</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Rolf Helm, Generalstaatsanwalt von Gross-Berlin, to Rudolf Klimmer, Dresden, May 14, 1949.

<sup>99</sup> SchA, Klimmer NL, folder: Auszüge aus Briefen, letter from Kranke und Kirschner, Freier Deutscher Gewerkschaftsbund, Bundesvorstand, Abteilung Arbeit und Sozialpolitik, Berlin, to Rudolf Klimmer, Dresden, June 29, 1950.

<sup>100</sup> SchA, Klimmer NL, folder: Auszüge aus Briefen, letter from Götz Berger, Parteivorstand der SED, Zentralsekretariat, Justizabteilung, Berlin, to Rudolf Klimmer, Dresden, March 14, 1950.

Berger might very well have been thinking of a 1950 *Neue Justiz* article that Klimmer himself had written.<sup>101</sup>

The FDGB also supported Klimmer's efforts as a matter of principle: "For this reason, § 175 no longer has any reason to exist in an antifascist, democratic state in which concern for people must take precedence in all aspects of life."<sup>102</sup> According to Klimmer, homosexuality was the result of a "deeply rooted natural drive" that could not be suppressed by any means, "whether by execution during the Middle Ages or in National Socialist concentration camps," and it was "thus absurd to want to put an end to it (*dem gebieten zu wollen absurd ist*)."<sup>103</sup> To overcome this legacy of persecution, postwar Germans had the duty to let science and a humanitarian spirit (*Menschlichkeit*) prevail.

It seemed as if the *Vereinigung der Verfolgten des Naziregimes* (Union of the Victims of the Nazi Regime, or VVN) was inclined to agree. In 1948, the VVN wrote to Klimmer that "in today's day and age, it is particularly urgent that the decade-long struggle waged by all progressive people to abolish § 175 come to a [satisfactory] resolution."<sup>104</sup> Dr. Harald Pölchau, a member of the VVN's Executive Committee, even convinced the Board of Legal Examiners in Berlin, which was entrusted with the responsibility to remove the taint of fascism from jurisprudence in the German

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<sup>101</sup> Rudolf Klimmer, "Die Homosexualität und ihre Bestrafung," *Neue Justiz*, no. 4 (1950), 109-111; Grau, "Sozialistische Moral und Homosexualität," 99.

<sup>102</sup> SchA, Klimmer NL, folder: Auszüge aus Briefen, letter from Kranke und Kirschner, Freier Deutscher Gewerkschaftsbund, Bundesvorstand, Abteilung Arbeit und Sozialpolitik, Berlin, to Rudolf Klimmer, Dresden, June 29, 1950.

<sup>103</sup> SchA, Klimmer NL, folder: HE-DDR, Rudolf Klimmer, "Die Homosexualität," April 30, 1947, 3 of document.

<sup>104</sup> SchA, Klimmer NL, folder: Auszüge aus Briefen, letter from Vereinigung der Verfolgten des Naziregimes (VVN), Generalsekretariat, Berlin, to Rudolf Klimmer, Dresden, September 23, 1948. As noted by Günter Grau, the letter also pointed out that while the VVN recognized that the decades-long struggle against § 175 by "progressive people" needed to come to a resolution, it would leave it up to the discretion of individual VVN members whether or not to join the fight. Grau, "Sozialistische Moral und Homosexualität," 101.

Occupation Zones, to submit a recommendation to repeal § 175 to the *Kontrollrat* (Allied Control Council).<sup>105</sup> While the *Kontrollrat* did not see fit to implement this recommendation, the fact that it came from a German organization devoted to rectifying National Socialist injustices was quite significant. East German antifascism has often been characterized as a mere foil for disingenuous anti-West German propaganda, but in the case of Pölchau's initiative at least, it was more than just a rhetorical construct. His action constituted an implicit acknowledgment that dismantling the legal architecture of the persecution of gay men was in fact part of the antifascist project.

If this was the case, then why did the VVN reject Klimmer's petition to accord victim status to gay men who had been persecuted by the National Socialist regime? For the VVN, the category of antifascist was predicated upon political resistance to National Socialist rule, not victimization on the basis of personal characteristics. The VVN's logic unfolded along the following lines:

The fact that the Nazis considered homosexuals to be their political opponents is certainly not decisive for antifascists. The Nazis, relying upon typically fascist generalizations, viewed many groups as their political opponents even though in actuality [these groups] were not [opposed to the regime]. Freemasons, for example, also fall into this category. This does not mean that there were no Freemasons or homosexual individuals who fought against fascism; these individuals should definitely be recognized as political opponents of National Socialism.<sup>106</sup>

In other words, the vast majority of gay men could not have been considered true victims of Nazism because they had not been overt political opponents of the regime—even if the

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<sup>105</sup> SchA, Klimmer NL, folder: Auszüge aus Briefen, letter from Harald Pölchau, Mitglied des Zentralvorstandes der Vereinigung der Verfolgten des Naziregimes, to Rudolf Klimmer, Dresden, undated.

<sup>106</sup> SchA, Klimmer NL, folder: Schriftwechsel Klimmer mit VVN, letter from Harry Kuhn, Vereinigung der Verfolgten des Naziregimes, Generalsekretariat Berlin, to Rudolf Klimmer, Dresden, June 23, 1949.

Nazis had apparently considered them as such. This retroactive characterization of gay men's political sensibilities emanated from the assumption that gay men were bourgeois opponents of the new East German social order who had thus relinquished their claim to antifascist *bona fides*.<sup>107</sup>

Harry Kuhn of the VVN operated under the assumption that homosexual conduct should be classified as a criminal offense—a curious stance to adopt given the zeal with which at least some VVN officials sought to overturn § 175:

No one denies that Nazi judicature—to the extent that one can even speak of such a thing—acted against homosexuals in a brutal manner. These brutal methods, however, were applied to many groups that cannot be counted among the political opponents of National Socialism for this reason alone. Criminals, for instance, were sentenced to death and executed for offenses that would have merited a more lenient punishment under other kinds of regimes.<sup>108</sup>

Kuhn professed interest in learning about instances of oppression against gay men during the Third Reich because of his interest “in any and all material regarding Nazi methods [of persecution],” and he conceded that the punishment meted out by the Nazis for homosexual offenses was far from commensurate with the severity of these crimes.<sup>109</sup> He also admitted that the VVN had working groups devoted to individuals whom the Nazis had consigned to concentration camps for racial and religious rather than political reasons. None of this, however, changed his opinion that homosexual men who had not

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<sup>107</sup> Kowalski, *Homosexualität in der DDR*, 26, drawing upon Derra, “Sexualforscher in der DDR,” 19-20; Susanne zur Nieden, “...als Opfer des Faschismus nicht tragbar’: Ausgrenzungen verfolgter Homosexueller In Berlin 1945-1949,” in *Verfolgung von Homosexuellen im Nationalsozialismus*, ed. Herbert Diercks (Bremen: Ed. Temmen, 1999).

<sup>108</sup> SchA, Klimmer NL, folder: Schriftwechsel Klimmer mit VVN, letter from Harry Kuhn, Vereinigung der Verfolgten des Naziregimes, Generalsekretariat Berlin, to Rudolf Klimmer, Dresden, June 23, 1949; McLellan, *Love in the Time of Communism*, 116.

<sup>109</sup> SchA, Klimmer NL, folder: Schriftwechsel Klimmer mit VVN, letter from Harry Kuhn, Vereinigung der Verfolgten des Naziregimes, Generalsekretariat Berlin, to Rudolf Klimmer, Dresden, June 23, 1949.

been a part of the political opposition did not deserve membership or a working group of their own in the VVN.<sup>110</sup> Although Klimmer's quest was ultimately unsuccessful, its very existence meant that the victimization of gay men by the Nazis was thematized in the GDR long before the 1980s, when gay activism attained an unprecedented level of public visibility.<sup>111</sup>

While Klimmer brought attention to the victimization of gay men by the Nazis, Saxony's Attorney General Karl Kohn tried to convince his colleagues in Thüringen of the complicity of Rudolf Lemke, a professor at the University of Jena's neurological clinic, in this persecution. Kohn alerted them to the fact that Lemke's 1940 book, *Über Ursache und strafrechtliche Beurteilung der Homosexualität (On the Origins and Penal Assessment of Homosexuality)*, attributed "zealous propaganda for exempting homosexuality from criminal penalty" to Jews and characterized "the struggle against homosexuals" as "an urgent responsibility" given the National Socialist state's "racial-hygienic demands." He accused Lemke of having been "a convinced adherent of National Socialist violent rule, and in particular its racial thinking," and thus unworthy of

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<sup>110</sup> SchA, Klimmer NL, folder: Schriftwechsel Klimmer mit VVN, letter from Harry Kuhn, Vereinigung der Verfolgten des Naziregimes, Generalsekretariat Berlin, to Rudolf Klimmer, Dresden, June 23, 1949; Grau, "Sozialistische Moral und Homosexualität," 101-102. Klimmer once again objected to the lack of official East German recognition of Nazi persecution of homosexuals in a letter that he wrote to the Ministry of Justice in 1966, after the broadcast of a documentary on the subject by Radio Bremen. The Ministry of Justice proved no more willing than the VVN had been in according official victim status to gay men; indeed, it saw no reason to accord the same status to "resistance fighters, victims of racial persecution, and homosexuals." See Brühl, "Sozialistisch und schwul," 104-105; Grau, "Sozialistische Moral und Homosexualität," 102 (quotation cited by Grau from BArch Berlin-Lichterfelde, DP1 VA 2488, letter from Ministerium der Justiz (hereafter MdJ), Berlin to Rudolf Klimmer, Dresden, October 26, 1966).

<sup>111</sup> Brühl, "Sozialistisch und schwul," 126; Grau, "Sozialistische Moral und Homosexualität," 102-103. For a discussion of the thematization (primarily in the FRG) of gay victimization by the National Socialists, see Erik N. Jensen, "The Pink Triangle and Political Consciousness: Gays, Lesbians, and the Memory of Nazi Persecution," *Journal of the History of Sexuality* 11, nos. 1/2 (January/April 2002), 319-349; Elizabeth Heineman, "Sexuality and Nazism: The Doubly Unspeakable?," in Herzog, ed., *Sexuality and German Fascism*, 22-66, here 33-34; Dagmar Herzog, "Sexuality, Memory, Morality," *History & Memory* 17, no. 1-2 (Fall 2005), 238-266, here 259.

a professorship in the SBZ. Kohn thus explicitly linked the nefarious logic that informed both racist and homophobic thinking during the Third Reich.<sup>112</sup> And he was not alone in doing so. Ludwig Renn also averred that “[t]hreatening [homosexuals] with punishment for a predisposition that they have not created is just as unjust as persecuting a person because of his race.”<sup>113</sup>

Kohn’s efforts to hold Lemke accountable for his positions on homosexuality during the Third Reich ran up against a climate of opinion in the SBZ and GDR that ascribed the “asocial” phenomenon of homosexuality not only to Nazism’s victims, but also to Nazis themselves.<sup>114</sup> In other words, how could Nazis have been intent upon persecuting gay men if they themselves were homosexuals?<sup>115</sup> East German jurists Udo

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<sup>112</sup> Although the case against Lemke was still pending in December 1948, Lemke ultimately retained his professorship and went on to become the founding director of the Society for Psychiatry and Neurology in 1956. SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Karl Kohn, Generalstaatsanwalt im Lande Sachsen, Dresden, to Herr General Staatsanwalt im Lande Thüringen, Weimar, June 4, 1948 (Kohn also sent copies of this letter to Rudolf Klimmer, Landesvorstand der SED in Thüringen, and Landeskriminalamt Thüringen); SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Karl Kohn, Generalstaatsanwalt im Lande Sachsen, Dresden, to Rudolf Klimmer, Dresden, December 15, 1948; Helmut Rennert, “In memoriam: Rudolf Lemke, 1906-1957,” *Archiv für Psychiatrie und Zeitschrift für die gesamte Neurologie* 196 (1958), 539-541, here 539. For more on the limitations of denazification in the East German medical profession, see Chapter 2.

<sup>113</sup> SchA, Klimmer NL, folder: Auszüge aus Briefen, writing attributed to Ludwig Renn, undated, unnumbered fifth page. For more on Ludwig Renn, see Brühl, “Sozialistisch und schwul,” 102; Manfred Herzer, “Ludwig Renn: Ein schwuler kommunistischer Schriftsteller im Zeitalter des Hochstalinismus,” *Capri: Zeitschrift für schwule Geschichte*, no. 4 (1990), 27-37. According to Ursula Sillge, “Renn’s homosexuality was largely unknown, and it was met with tacit toleration by the SED leadership.” Sillge, *Un-Sichtbare Frauen*, 88.

<sup>114</sup> East German psychiatrist Dietfried Müller-Hegemann confirmed this conventional wisdom in a study that he published in 1955. Heike Bernhardt, “Mit Sigmund Freud und Iwan Petrowitsch Pawlow im Kalten Krieg: Walter Hollitscher, Alexander Mette und Dietfried Müller-Hegemann in der DDR,” in *Mit ohne Freud: Zur Geschichte der Psychoanalyse in Ostdeutschland* (Gießen: Psychosozial-Verlag, 2000), 172-203, here 187.

<sup>115</sup> “Far from being a theoretical abstraction in leftist ideology, the conflation of homosexuality and fascism seems to have marked an opportunistic capitulation of theory in the face of popular sentiment. The identification of proletarian revolution with values of virility and sexual potency leads all too easily to an attribution of homosexuality or effeminacy to the enemy.” Andrew Hewitt, *Political Inversions: Homosexuality, Fascism, and the Modernist Imaginary* (Stanford: Stanford University Press, 1996), 9. Soviet author and political activist Maxim Gorky opined in 1934 that “wiping out homosexuality would lead to the end of fascism.” Hekma, Oosterhuis, and Steakley, “Leftist Sexual Politics,” 30.

Dressler and Manfred Naundorf followed a logic akin to that of the VVN in contending that National Socialism's ostensible animus towards same-sex eroticism was little more than a pretense for stigmatizing political opponents, such as Catholic clergy and enemies within the party's own ranks.<sup>116</sup> If the Nazis did not implement § 175 to target homosexuality per se but instead perceived threats to their political power, then the ongoing criminalization of same-sex sexual acts was devoid of any National Socialist taint. From Dressler and Naundorf's perspective, this legal sanction constituted a vital bulwark that would protect the moral sensibilities of the working people (*Werkstätigen*) in general and of youth in particular.<sup>117</sup>

Given the positive reception of Klimmer's ideas by Professor Hans Hinderer of the German Academy for Political Science and Law at Potsdam-Babelsberg, which was the quintessential juridical *Kaderschmiede* (elite party cadre training school) of the GDR, Klimmer was livid that the Academy would deign to publish Dressler and Naundorf's book:

One would expect jurists who deal with and give reasons for [the classification] of economic crimes to be knowledgeable about economics. One would be similarly justified in demanding that jurists who address sexual offenses (*Sittlichkeitsvergehen*) and their definition should have engaged with research on sexuality and possess knowledge about normal sexuality and that which deviates

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<sup>116</sup> It was not only opponents of decriminalization who espoused this viewpoint. Kulaszewski, for instance, noted that the 1935 revision of § 175 occurred against the backdrop of the Röhm Affair, which resulted in the murder of several prominent gay male members of the Nazi Party leadership, and the Nazis' desire to diminish the influence of the Catholic Church. For Kulaszewski, the Nazis' hypocrisy in this regard was all the more reason not to follow their example in retaining criminal penalties for private homosexual acts. SchA, Klimmer NL, folder: Schriftwechsel Dr. med. Klimmer, "Homosexualität und Justiz," *Leipziger Zeitung* March 13, 1947.

<sup>117</sup> Udo Dressler and Manfred Naundorf, *Verbrechen gegen die Person* [Materialien zum Strafrecht, Besonderer Teil, Heft 2] (Berlin: Deutscher Zentralverlag, 1955), 161; SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter fragment from Johannes Gerats, Institut für Strafrecht, Humboldt-Universität, Berlin, to an unspecified addressee (perhaps Klimmer?), undated but perhaps on or near November 10, 1956.

from the norm. I must emphasize that both authors are completely ignorant of sexology, and that they have not informed themselves about the nature and cause of homosexuality.<sup>118</sup>

After the assurances that Klimmer had received that his scientific arguments would be taken into consideration as the statute on homosexuality was being revised, he viewed Dressler and Naundorf's profound disregard for the value of sexology as an affront to his status as an expert. As a retort, Klimmer provided a scathing evisceration of their jurisprudential reasoning:

[Dressler and Naundorf] think that they can justify a new Penal Code by making use of a few Marxist formulations. This matter is not so easily addressed. They speak of a new moral mindset stemming from the new socialist relations of production, but they only recycle the old bourgeois phrase "the healthy sensibility of the people" [*gesundes Volksempfinden*] with a few altered words. [...] They base their justification of § 175 and § 175a on the purported "violation of the moral and ethical views of the working people." How do they know this? [...] If materials about criminal law are published today, it is not unreasonable to expect that they would be based upon the latest scientific knowledge instead of "views of the working people" that have not been substantiated by any surveys.<sup>119</sup>

Klimmer was adamant that the progressive spirit of sex reform did not perish with the Third Reich. For their part, Dressler and Naundorf believed that even if there had ever been popular support for repealing § 175, "the moral and ethical views of the working people in their judgment of homosexuality [had] changed to the disadvantage of homosexuals when compared to the time before 1933."<sup>120</sup> Two years later, the Penal Code reform commission's research group on sexual offenses was able to confirm that the overwhelming majority of working people did in fact consider homosexuality to be

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<sup>118</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Rudolf Klimmer, Dresden, to Hans Hinderer, DASR, Potsdam-Babelsberg, May 12, 1956.

<sup>119</sup> Ibid.

<sup>120</sup> Ibid.

“morally reprehensible (*moralisch verwerflich*),” but they came to this conclusion on the basis of consultations with only twenty-two male power plant workers and nine female employees at a textile spinning mill.<sup>121</sup>

Klimmer noted that Dressler and Naundorf were doing their own constitutional and legal principles a disservice by applying them selectively:

The authors speak of the free development of the personality and that socialist society provides the only solid guarantee that the interests of individuals will be protected. Where is the guarantee of the free development of personality for the homosexual man, and the guarantee for the defense of his interests? [...] One can agree with both authors when they assert that “not every indecent act, even if it is morally reprehensible, is worthy of punishment.” [...] Why should one then punish homosexual acts? One can view them as indecent and morally objectionable from an unscientific and Christian viewpoint, but that does not make them liable to punishment.<sup>122</sup>

In other words, Klimmer was calling for a socialist jurisprudence in which moral condemnation did not connote illegality, and in which the free development of the personality extended to those personalities that did not conform to the supposed socialist norm. And he was not alone in advancing this argument; influential jurists like Gerats also believed that “posing a threat to moral relations does not suffice in itself to make an act into a punishable crime.”<sup>123</sup> Klimmer reminded Dressler and Naundorf that the

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<sup>121</sup> BArch Berlin-Lichterfelde, DP1 VA 2376, Auszugsweise Abschrift aus dem Protokoll über die Beratung der Forschungsgruppe “Sexualverbrechen” mit 22 Arbeitern des VEB (Volkseigener Betrieb) Kraftwerk “Ernst Thälmann” in Leipzig, November 4, 1958 (Anhang zum Bericht “Die Sexualverbrechen”), 12 of document, 553 of archival file; BArch Berlin-Lichterfelde, DP1 VA 2376, Auszugsweise Abschrift aus dem Protokoll über die Beratung der Forschungsgruppe “Sexualverbrechen” mit 9 Arbeiterinnen des VEB Mitteldeutsche Kammgarnspinnerei in Leipzig, November 10, 1958 (Anhang zum Bericht “Die Sexualverbrechen”), 12 of document, 553 of archival file. Even though the transcriptions of the workers’ comments reflected verbiage that hewed closely to that of the commission members, it is worth noting that more comments were attributed to the female workers than to their male counterparts.

<sup>122</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Rudolf Klimmer, Dresden, to Hans Hinderer, DASR, Potsdam-Babelsberg, May 12, 1956.

<sup>123</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Johannes Gerats, Institut für Strafrecht, Humboldt-Universität, Berlin, to Rudolf Klimmer, Dresden,

source of their moral condemnation of homosexual conduct was not socialist principle or the working people. Instead, it stemmed from a legacy of Christianity that the SED was supposedly trying to leave behind.

Klimmer was very concerned that Dressler and Naundorf's text might become a definitive one for East German judges and prosecutors and thereby result in a "wave of persecution against homosexuals—completely innocent people." But he was not only worried for gay men's sake: "I fear a disturbance of the peaceful building of the GDR and increased emigration by homosexuals who are important for our economy and culture."<sup>124</sup> In other words, Klimmer admonished Hinderer that it was in the SED's own best interests to respect the sexual privacy of otherwise law-abiding gay men. Klimmer's ally Renn also cast gay men as indispensable to the ongoing task of strengthening socialism:

One normally sees only the most crass and repulsive cases [of homosexuality], which are already covered by other laws insofar as they are offenses stemming from asociality. What one does not see are the many who struggle with their problem and who are people just like us—people who are participating in the rebuilding of our country.<sup>125</sup>

Grau considers Dressler and Naundorf's stance to have been exemplary of the SED's position on homosexuality during the 1950s.<sup>126</sup> But the discursive terrain within the Academy was far from uncontested when it came to the question of homosexuality, and Hinderer was not Klimmer's only ally there. Hans Weber, a jurist who launched his

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February 13, 1959 (source of quotation); Hans Weber, "Die Sexualverbrechen im Strafrecht der Deutschen Demokratischen Republik und einige Probleme ihrer strafrechtlichen Bekämpfung" (Jur. diss., Juristische Fakultät der Deutschen Akademie für Staats- und Rechtswissenschaften "Walter Ulbricht," Potsdam-Babelsberg, 1957), 343, as quoted by Kowalski, *Homosexualität in der DDR*, 19.

<sup>124</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Rudolf Klimmer, Dresden, to Hans Hinderer, DASR, Potsdam-Babelsberg, May 12, 1956.

<sup>125</sup> SchA, Klimmer NL, folder: Auszüge aus Briefen, writing attributed to Ludwig Renn, undated, unnumbered fifth page.

<sup>126</sup> Grau, "Im Auftrag der Partei," 118; Grau, "Liberalisierung und Repression," 326.

career at the Academy, emulated his dissertation adviser Joachim Renneberg in becoming a staunch proponent of revoking § 175.<sup>127</sup> Klimmer was invited to Weber's dissertation defense and returned the favor by mentioning Weber's dissertation in his own monograph.<sup>128</sup> Grau maintains that Weber's dissertation was of little consequence even as he acknowledges that the 1963 Research Group on Sexual Offenses explicitly cited Weber's work in its report for the Penal Code reform commission.<sup>129</sup> Perhaps emboldened by Weber's support for his ideas, Klimmer asked to be included in the deliberations of the Penal Code subcommittee devoted to sexual offenses during the late 1950s.<sup>130</sup>

Even in the absence of the organizational infrastructure provided by the pre-1933 Scientific-Humanitarian Committee (*Wissenschaftlich-humanitäres Komitee*, or WhK) for building a network of professionals supportive of decriminalizing homosexuality, Klimmer had reason to believe that he could revive the spirit of the WhK and the alliances that it had cultivated. Professor Arthur Baumgarten, Director of the Institute for Legal Philosophy at the Humboldt University in East Berlin, had been “a principled

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<sup>127</sup> Weber and Frenzel, *Der strafrechtliche Schutz der Persönlichkeit*, 122-123. Renneberg was integrally involved in Penal Code reform deliberations during the 1950s. By 1963, Renneberg led the subcommittee that devised the overall conception of the new Penal Code and Trial Procedure Guide, and Weber served as his deputy. BArch Berlin-Lichterfelde, DP1 SE 1011, Übersicht über die Erledigung der Arbeiten des F-Planes 1954/1955, enclosed with a letter from Hartmann, wissenschaftlicher Sekretär des Deutschen Institutes für Rechtswissenschaft, Abteilung Strafrecht, to MdJ, Abteilung Strafrecht, Berlin, September 22, 1955; BArch Berlin-Lichterfelde, DP1 SE 1491, Teil 1, Zusammensetzung der UK I—Erarbeitung der Grundkonzeption StGB [Strafgesetzbuch] und StPO [Strafprozeßordnung], MdJ, Hauptabteilung (hereafter HA) Recht, Berlin, August 22, 1963.

<sup>128</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Rudolf Klimmer, Dresden, to Leipziger Subkommission Sittlichkeitsdelikte, undated but ostensibly from 1958 or thereafter; Klimmer, *Die Homosexualität als biologisch-soziologische Zeitfrage*, 331, as quoted by Brühl, “Sozialistisch und schwul,” 103.

<sup>129</sup> Grau, “Sozialistische Moral und Homosexualität,” 113; Grau, “Liberalisierung und Repression,” 337.

<sup>130</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Rudolf Klimmer, Dresden, to Leipziger Subkommission Sittlichkeitsdelikte, undated but ostensibly from 1958 or thereafter.

opponent of the penalization of homosexuality for years,” and his ardor for reform did not diminish even though he discerned that the SED was in no hurry to change the law. Baumgarten was even willing to serve as Klimmer’s proxy in legislative meetings to which Klimmer was not privy, and he urged Klimmer to emulate the WhK’s 1897 campaign in conducting a survey to gauge the breadth of jurists’, politicians’, and medical experts’ support for the repeal of § 175. Klimmer solicited Dr. Alexander Mette’s assistance in disseminating such a survey, albeit to no avail.<sup>131</sup>

Klimmer also followed the example of the WhK when he initiated correspondence with ecclesiastical authorities.<sup>132</sup> His contacts with leading figures in the Protestant Church were particularly noteworthy at a time when Protestants and Catholics alike sought to obscure German responsibility for National Socialist crimes by emphasizing the Nazis’ purported sexual profligacy in order to draw attention away from the moral egregiousness of Nazi crimes against humanity.<sup>133</sup> There was also a “progressive version” of postwar West German Christianity that drew different lessons from the Nazi past than did the dominant conservative Christian ethos, but according to Dagmar Herzog, this progressive sensibility did not extend to sexual matters. As a salient example of this, she notes that “[m]ost Christian commentators on male homosexuality [in the FRG] in the 1950s opposed decriminalization.”<sup>134</sup>

By the early 1960s, Robert Moeller argues that some West German church officials had digested the findings of the British Wolfenden Report of 1957 and had come

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<sup>131</sup> SchA, Klimmer NL, folder: Briefe Dr. Rudolf Klimmers an Prof. Mette, 1953-1957, letter from Rudolf Klimmer, Dresden to Alexander Mette, Berlin-Niederschönhausen, December 11, 1953, 1<sup>st</sup> and 2<sup>nd</sup> pages; Beachy, “German Invention of Homosexuality,” 824-825. For more on Klimmer’s and Mette’s tangled professional and personal trajectories, see Chapter 2.

<sup>132</sup> Beachy, “German Invention of Homosexuality,” 824-825.

<sup>133</sup> Herzog, *Sex after Fascism*, 73, 75.

<sup>134</sup> Herzog, “Sexuality, Memory, Morality,” 243, 250.

to accept its endorsement of the decriminalization of consensual adult male homosexual acts.<sup>135</sup> But Klimmer was able to identify Protestant authorities in both German states who already believed during the early 1950s that the Church should not intervene in matters pertaining to the legislation of morality.<sup>136</sup> These officials proceeded from the assumption that an agnostic stance regarding the ethical valence of secular legislation did not have to entail an abdication of Protestant moral authority:

From the church's standpoint, every form of immoral behavior is against the precepts of God. [...] The church does not have the responsibility, except in extreme cases, to have an opinion about such legal considerations and decisions about whether certain forms of immoral behavior should be subject to punishment while others are not. In the current climate, the Protestant Church has no direct motive to offer an opinion with regard to the problems related to § 175.<sup>137</sup>

Dr. Otto Dibelius, Evangelical Bishop for all sectors of Berlin, went beyond moral agnosticism to an embrace of the value of respecting sexual privacy as long as safeguards for the “protection” of youth remained in place:

Our sort [i.e., religious figures] knows the tragedy of the 175ers all too well. None of us would deny compassion to these miserable people. If a youth is endangered in either body or mind, a protective barrier should be erected. But it is something entirely different when a situation involves two adults with a conscious sense of responsibility.<sup>138</sup>

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<sup>135</sup> The Report was issued by the Wolfenden Committee, which had been meeting since 1954 and which included two ecclesiastical representatives.

<sup>136</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Rudolf Klimmer, Dresden, to Johannes Gerats, Institut für Strafrecht, Humboldt-Universität, Berlin, December 31, 1958; Klimmer, *Die Homosexualität als biologisch-soziologische Zeitfrage*, xvii, 36, 222, 273; Robert G. Moeller, “Private Acts, Public Anxieties, and the Fight to Decriminalize Male Homosexuality in West Germany,” *Feminist Studies* 36, no. 3 (Fall 2010), 528-552, here 538.

<sup>137</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Evangelische Kirche in Deutschland, Kirchenkanzlei in Hannover-Herrenhausen, to Rudolf Klimmer, Dresden, March 25, 1952.

<sup>138</sup> SchA, Klimmer NL, folder: Auszüge aus Briefen, letter from Otto Dibelius, Evangelischer Bischof von Berlin, to Rudolf Klimmer, Dresden, April 21, 1952. Dibelius had been a member of the Confessing Church (*Bekennende Kirche*), which had opposed National Socialist policies, but he was also strident in his opposition to the SED's strategies of governance. He would become known for his role as a critic of the

Professor Karl August Busch of the Martin Luther Church in Dresden expressed similar sentiments:

I absolutely share your opinion that the laws against the homosexual affliction (*Leiden*) should be eliminated in order to lift the spirits (*Gemütsbefreiung*) of many miserable people. They bear no guilt [for their orientation] but are instead unhappy sufferers who should be given loving help rather than being punished or ostracized.<sup>139</sup>

While Klimmer presumably objected to their characterization of gay men as “miserable people,” he welcomed Dibelius’s and Busch’s support for decriminalization on the basis of gay men’s “conscious sense of responsibility” and lack of legal accountability for a sexual orientation that they could not change. Supporters of decriminalization in the ecclesiastical realm might not have been aware of one another’s existence, however, since Provost D. H. Grüber of Berlin characterized himself as a lone voice encouraging the Protestant Church to embrace rather than spurn homosexuals:

Again and again, I have come across such ill-fated people for whom the universal contempt to which they are subjected exacerbates what is already an unfortunate predisposition [*Anlage*]. I am the one who is trying to muster up understanding in the church leadership for the tragedy that these people must endure. When conditions have been clarified and things have calmed down, I think that this task must be addressed by collaboration between theologians, doctors, and psychologists.<sup>140</sup>

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lack of the rule of law (*Rechtsstaatlichkeit*) in the GDR and for his equation of Nazi and East German repression. See Ehrhart Neubert, “Kirchenpolitik,” in *DDR-Geschichte in Dokumenten: Beschlüsse, Berichte, interne Materialien und Alltagszeugnisse*, 2<sup>nd</sup> ed., ed. Matthias Judt (Berlin: Ch. Links Verlag, 1998 [1997]), 363-430, here 365.

<sup>139</sup> SchA, Klimmer NL, folder: Auszüge aus Briefen, letter from Karl August Busch, Martin-Luther Kirche in Dresden, to Rudolf Klimmer, Dresden, July 1, 1952.

<sup>140</sup> SchA, Klimmer NL, folder: Auszüge aus Briefen, letter from D. H. Grüber, Propst, Berlin, to Rudolf Klimmer, Dresden, April 3, 1952.

Even as Klimmer tried to convince his psychiatric colleagues of the primacy of congenital factors in the etiology of a homosexual orientation, Busch and Grüber were already certain that same-sex desire stemmed from a constitutionally determined predisposition. But while Klimmer felt that the moment for reform was ripe, Grüber echoed the argument of many governmental officials who were inclined to wait until the East German political and societal landscape became more settled.

### **The Complicated Trajectory of Penal Code Reform**

It would seem as if the SED had decided that the time for reform might be ripe after all, since the first Penal Code reform commission in the GDR convened in March 1952 under the leadership of Supreme Court Vice President Hilde Benjamin.<sup>141</sup> Evans asserts that “[b]iological explanations of homosexuality, such as those advocated by [...] Klimmer, while circulating in the West, made little impact on legal definitions of deviance in the GDR” given the prevailing emphasis on “social environment, class struggle, and material inequality as contributing factors to moral debasement and criminality.”<sup>142</sup> For a decisive majority of Penal Code reform commission members, however, it would seem as if pre-1933 KPD support for decriminalization had not faded from their memories.<sup>143</sup> They included Supreme Court Judge Ranke, Ministry of Justice State Secretary Heinrich Toeplitz (1914-1998), *Neue Justiz* editor Hans Nathan (1900-1971), Joachim Renneberg of the Academy for Political Science and Law in Potsdam-Babelsberg, Supreme Court Vice President Hilde Benjamin, and Gerats, all of whom

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<sup>141</sup> Grau, “Im Auftrag der Partei,” 112.

<sup>142</sup> Evans, “*Bahnhof Boys*,” 635.

<sup>143</sup> Grau, “Im Auftrag der Partei,” 114.

considered “simple homosexuality (*einfache Homosexualität*) to be an “abnormal corporeal predisposition (*eine abnorme körperliche Anlage*) for which homosexuals could not be held any more responsible than the mentally ill could be for their afflictions.”<sup>144</sup>

But the congenital basis of a homosexual orientation would ultimately prove to be less decisive than an estimation of the “danger” to society posed by certain kinds of homosexual acts. Gerats, Toeplitz, and Renneberg did not see the logic of exempting other, similarly “dangerous” sexual “abnormalities” such as masturbation and “certain kinds of sexual intercourse” from punishment while imposing penalties on homosexual conduct.<sup>145</sup> And Toeplitz had not yet heard a single convincing argument regarding the harm allegedly posed to society by the sexual acts of men with a same-sex orientation. He considered demographic objections to be spurious, since he had firsthand knowledge of the fact that forcing gay men to marry straight women invariably resulted in unhappy unions rather than offspring.<sup>146</sup> Gerats pointed out that if the government justified criminal penalties for homosexuals because they could not or would not have children, then it would “also have to punish the use of contraceptives, which certainly have played a far greater role in lowering the birthrate.”<sup>147</sup> Like their predecessors in the Weimar era, proponents of decriminalization considered homosexual acts to be harmful and in need of

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<sup>144</sup> Grau, “Sozialistische Moral und Homosexualität,” 106; BArch Berlin-Lichterfelde, DP1 VA 1325, Stenographische Niederschrift, Sitzung der Kommission zur Ausarbeitung eines neuen Strafgesetzbuches, September 1, 1952, 55-57 of document, 236-238 of archival file.

<sup>145</sup> BArch Berlin-Lichterfelde, DP1 VA 1325, Stenographisches Protokoll, Sitzung der Kommission zur Ausarbeitung eines neuen Strafgesetzbuches, September 8, 1952, 33, 37, 40, 42 of document, 294, 298, 301, 303 of archival file.

<sup>146</sup> *Ibid.*, 40-41 of document, 301-302 of archival file; BArch Berlin-Lichterfelde, DP1 VA 1325, Stenographische Niederschrift, Sitzung der Kommission zur Ausarbeitung eines neuen Strafgesetzbuches, September 1, 1952, 57 of document, 238 of archival file.

<sup>147</sup> BArch Berlin-Lichterfelde, DP1 VA 1325, Stenographisches Protokoll, Sitzung der Kommission zur Ausarbeitung eines neuen Strafgesetzbuches, September 8, 1952, 41 of document, 302 of archival file.

punitive measures only when they involved coercion, profit, and the seduction of legal minors.<sup>148</sup>

While many commission members ascribed to the view that a homosexual orientation had congenital origins, there was no consensus on the issue. Instead of indicating a “failure” of Klimmer’s efforts, however, the internal debates mirrored many of Klimmer’s epistolary discussions. Ranke, for instance, believed that “labile” individuals could be tempted to succumb to “perversion” and a deficient work ethic in the event of decriminalization.<sup>149</sup> Kurt Schumann, President of the Supreme Court, agreed with Ranke that while some cases of homosexuality did result from heredity, the “overwhelming percentage [...] results from seduction, habit, and lack of opportunity [to engage in heterosexual intercourse].”<sup>150</sup> For this reason, Schumann believed that “[t]he value of the penal provision lies in its ability to prevent the initial attempts at same-sex sexual acts [*gleichgeschlechtlichen Dingen*] and thereby protect a portion of the population from exposure to such things.”<sup>151</sup>

Mette, who was invited to share his psychiatric expertise with the commission, recommended decriminalization for “simple” homosexuality and ongoing criminal penalties for homosexuality acquired along the vectors outlined by Schumann and Ranke. Mette was convinced that “habituation [*Gewöhnung*]” to homosexuality was more common than congenital homosexuality, even though he admitted that he had no data to

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<sup>148</sup> BArch Berlin-Lichterfelde, DP1 VA 1325, Stenographische Niederschrift: Sitzung der Kommission zur Ausarbeitung eines neuen Strafgesetzbuches, September 1, 1952, 58 of document, 239 of archival file.

<sup>149</sup> Ibid., 55-56, 58 of document, 236-237, 239 of file.

<sup>150</sup> Ibid., 57 of document, 238 of archival file.

<sup>151</sup> BArch Berlin-Lichterfelde, DP1 VA 1326, Stenographisches Protokoll, Sitzung der Kommission zur Ausarbeitung eines neuen Strafgesetzbuches, October 13, 1952, 91 of document, 234 of archival file.

support this contention and that such figures would be “very difficult to ascertain.”<sup>152</sup>

Despite this admission on Mette’s part, Schumann averred that “[t]he explanations of Dr. Mette have strengthened my opinion that congenital factors play a very minor role and that the question of habituation must be taken very seriously.”<sup>153</sup>

When Gerats challenged Schumann’s view that homosexuals’ aversion to “normal sexual intercourse” and “family life” could also interpreted as a “sign of illness,” Schumann disagreed, noting that “it is the same as with hereditary drunkards.”<sup>154</sup> For Schumann, both alcoholism and homosexual conduct warranted punitive measures even if they were genetic in origin. And he had the support of Dr. Gehring, the other medical expert invited to testify by the commission, who opined that “even if [homosexuality] occurs due to congenital factors [...] it should be subject to punishment.” While Klimmer argued that someone could only be “seduced” into homosexuality if she or he had a latent homosexual orientation, Gehring was doubtful: “[w]hether the other person has the congenital disposition or not—who is capable of making that call?”<sup>155</sup> Ultimately, even Gerats and Benjamin were not absolutely sure about the primacy of genetic factors, since they called for the criminalization of “clubs with nude dancing” that might provide unwelcome temptation to engage in homosexual licentiousness.<sup>156</sup>

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<sup>152</sup> BArch Berlin-Lichterfelde, DP1 VA 1325, Stenographisches Protokoll, Sitzung der Kommission zur Ausarbeitung eines neuen Strafgesetzbuches, September 8, 1952, 32-33 of document, 293-294 of archival file.

<sup>153</sup> Ibid., 43-44 of document, 304-305 of archival file.

<sup>154</sup> BArch Berlin-Lichterfelde, DP1 VA 1325, Stenographische Niederschrift, Sitzung der Kommission zur Ausarbeitung eines neuen Strafgesetzbuches, September 1, 1952, 57 of document, 238 of archival file.

<sup>155</sup> BArch Berlin-Lichterfelde, DP1 VA 1325, Stenographisches Protokoll, Sitzung der Kommission zur Ausarbeitung eines neuen Strafgesetzbuches, September 8, 1952, 34 of document, 295 of archival file.

<sup>156</sup> BArch Berlin-Lichterfelde, DP1 VA 1325, Stenographische Niederschrift, Sitzung der Kommission zur Ausarbeitung eines neuen Strafgesetzbuches, September 1, 1952, 58 of document, 239 of archival file.

Schumann felt that criminalization was necessary because the adverse societal influences of the recent past continued to make themselves known in the GDR. He noted that “[i]t is well known that unnatural lewdness became widespread at castles of noble orders and in the Hitler Youth vacation camps during the Nazi era” and that “[a] large proportion of the homosexuality that we still experienced after the war stems from this [earlier] era.” Toeplitz countered that the problem of the spread of homosexuality had already been a trenchant trope of Weimar-era discourse. While he neither confirmed nor denied Schumann’s observation about the prevalence of homosexual conduct under National Socialism, Toeplitz insisted instead that it was “precisely the Nazis who brought their racist views to bear upon this question” and meted out harsher punishments for homosexual offenses.<sup>157</sup> Thus the Third Reich served as a cautionary tale for both Schumann and Toeplitz, but for very different reasons. While Schumann saw Nazism as having eliminated necessary fetters on aberrant salaciousness, Toeplitz warned against perpetuating the Nazi crime of penalizing such deviant sexual conduct on grounds emanating from racialized population policy.

It was thus possible for commission members to agree that “the spread of homosexuality is a typical sign of the degeneration of the ruling class” under capitalism but to disagree about the implications of this for the GDR. Lekschas lamented that “[i]t is not at all possible for us to have overcome these remnants [of capitalist degeneration] during the short time span that separates us from the collapse of fascism” and that it was precisely because of the persistence of these remnants from pre-socialist society that the Soviet Union and Czechoslovakia had elected to (re-)criminalize homosexual conduct.

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<sup>157</sup> Ibid., 57-58 of document, 238-239 of archival file.

Gerats also felt it necessary to “combat” these “remnants” of capitalist degeneration, but he did not believe that it was advisable to rely upon criminal sanctions in doing so.<sup>158</sup>

As Renneberg noted, “[i]n the Soviet Union we are faced with the fact that the penalization of homosexuality was actually introduced belatedly. There the course of development must have been the reverse. It was the same in Czechoslovakia.”<sup>159</sup> Article 154a of the Soviet Penal Code specified three to five years of incarceration for consensual same-sex sexual acts involving adult men, and five to eight years in the penitentiary for non-consensual acts involving violence or taking advantage of a relationship of dependence. What Renneberg failed to mention was that this “belated” criminalization was that it took effect in 1934, just one year before the Nazi regime made § 175 much more stringent, and constituted a revocation of the decriminalization of male homosexual acts that had taken effect in Russia (but not the Soviet republics) in the immediate aftermath of the Bolshevik Revolution in 1917. By characterizing the Soviet legal trajectory as the “reverse” of what the GDR was experiencing, he was also rejecting the Soviet model as a template for the East German version of socialist jurisprudence—at least when it came to homosexuality.

Lekschas emphasized that the moral condemnation of homosexuality was necessary and would continue even if consensual same-sex sexual acts involving men

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<sup>158</sup> BArch Berlin-Lichterfelde, DP1 VA 1325, Stenographisches Protokoll, Sitzung der Kommission zur Ausarbeitung eines neuen Strafgesetzbuches, September 8, 1952, 39-40 of document, 300-301 of archival file; BArch Berlin-Lichterfelde, DP1 VA 1325, Stenographische Niederschrift, Sitzung der Kommission zur Ausarbeitung eines neuen Strafgesetzbuches, September 1, 1952, 56 of document, 237 of archival file. Because of the paucity of discussion of Soviet precedents in the available documentation, Günter Grau remains agnostic regarding the amount of influence exerted by the Soviet example in East German deliberations regarding the criminal status of homosexuality. Grau, “Im Auftrag der Partei,” 111.

<sup>159</sup> BArch Berlin-Lichterfelde, DP1 VA 1325, Stenographisches Protokoll, Sitzung der Kommission zur Ausarbeitung eines neuen Strafgesetzbuches, September 8, 1952, 33 of document, 294 of archival file.

were no longer subject to criminal penalty.<sup>160</sup> The oft-invoked “moral views of the working people” were to serve as the basis for this condemnatory stance. In order to take the pulse of popular opinion, the commission included a few members of the working class, but the transcripts of the commission’s deliberations reveal their contributions to have been few in number. More often than not, workers parroted viewpoints expressed at greater length by the professional experts on the commission. Occasionally, however, the transcripts yield a more complicated picture, such as when commission member Kant spoke of his experiences in working at a book bindery:

there were at least six couples that met each other there--mostly women between the ages of 28 and 35. I allude to this because our colleague mentioned that [homosexuality was not as prevalent] among workers than in higher social circles. It was good to work with these people. I am working with women again but have not observed [such relationships] anymore. Society must have developed itself in a much better way in this respect.<sup>161</sup>

Kant thus revealed a selective internalization of the viewpoints of his fellow commission members. For one thing, he pointedly refuted the notion that homosexual relationships were intrinsically alien to the working class, and that individuals in same-sex relationships were harbingers of bourgeois decadence. But he did not see his lesbian colleagues as constituting a biologically distinct minority, since he attributed the recent absence of same-sex couplings at his workplace to positive societal influences.

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<sup>160</sup> Grau, “Sozialistische Moral und Homosexualität,” 106-107.

<sup>161</sup> BArch Berlin-Lichterfelde, DP1 VA 1325, Stenographisches Protokoll, Sitzung der Kommission zur Ausarbeitung eines neuen Strafgesetzbuches, September 8, 1952, 45-50 (condensed pagination) of document, 306 of archival file.

According to Dr. Gehring, however, there were still East German workplace environments that were alarmingly conducive to the emergence of same-sex sexual relationships. He cited the example of

nurses who were crammed into the attics of hospitals and lived for long periods of time isolated from the rest of society. There were many cases of lesbian love [*sehr viele Fälle von lesbischer Liebe*] there. We discovered one such case marked by a frightening degree of codependence. The two partners could do nothing unless they were together.<sup>162</sup>

The topic of wayward nurses had already been on the agenda the previous month, and Hilde Benjamin had offered a less alarmist assessment of the peril that they posed; she recommended thwarting same-sex sexual relationships by letting “nurses live outside the hospital or not assign[ing] two nurses to the same room in a hospital.” She did not dispute, however, that same-sex environments constituted “unnatural conditions,” and where the dissolution of such conditions was not possible, as in the military, penal provisions would continue to be necessary.<sup>163</sup> Gehring’s fear stemmed from a larger concern, namely that homosexuals would gravitate towards asocial behavior, clique formation (*Bandenbildung*), and even espionage. It was for this reason that he deemed same-sex “codependency” in the workplace to have been more threatening than its opposite-sex counterpart. Such concerns were very much part of the contemporaneous West German discourse as well, most notably in Helmut Schelsky’s influential book *Soziologie der Sexualität (The Sociology of Sexuality)*.<sup>164</sup>

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<sup>162</sup> Ibid., 34 of document, 295 of archival file.

<sup>163</sup> BArch Berlin-Lichterfelde, DP1 VA 1326, Stenographisches Protokoll, Sitzung der Kommission zur Ausarbeitung eines neuen Strafgesetzbuches, October 13, 1952, 91 of document, 234 of archival file.

<sup>164</sup> Klimmer was a fervent critic of Schelsky’s. Klimmer noted that in his twenty-five years of forensic medical experience, he had not become aware of a specifically homosexual tendency towards asocial and

Toeplitz objected to the aspersions that Gehring cast upon same-sex relationships by noting that

these undesirable manifestations of codependence and clique formation by homosexuals were produced by these individuals' social isolation, which was itself the result of the penal provision. [...] The same kind of relationship of codependence can exist between a man and a woman who are engaging in sexual relations, such as between a nurse and a doctor in a hospital. This is a case that is just as undesirable, but which has the same consequences. The socially dangerous consequences that are specific to homosexuality are still not apparent to me.<sup>165</sup>

Toeplitz was effectively ventriloquizing Klimmer's stance that the most deleterious consequences of homosexuality were not intrinsic to the phenomenon itself but instead the products of criminalization and societal discrimination. He also echoed Klimmer in making the case for the fundamental comparability of homosexual and heterosexual relationships, since inappropriate workplace liaisons were apt to offend the populace's moral sensibilities regardless of the gender of the partners involved.

As Hilde Benjamin put it, "One must from the outset provide a legal definition of that which violates the moral views of the working people. These views are only harmed by that which happens in public."<sup>166</sup> For this reason, Renneberg suggested that the new statute on exhibitionism could supplant a statute that targeted homosexual conduct as such:

If we define the crime so that we subject homosexuality—simply the homosexual relationships themselves—to punishment, then we have specified the offense in a

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criminal behavior—and *Strichjungen* (male prostitutes) did not count, since they typically were not "real" homosexuals. SchA, Klimmer NL, folder: Sonderdrücke, Rudolf Klimmer, Rezension von Helmut Schelsky, *Soziologie der Sexualität, Geist und Tat* 12 (April 1957), 145-147, here 146.

<sup>165</sup> BArch Berlin-Lichterfelde, DP1 VA 1325, Stenographisches Protokoll, Sitzung der Kommission zur Ausarbeitung eines neuen Strafgesetzbuches, September 8, 1952, 34-35 of document, 295-296 of archival file.

<sup>166</sup> *Ibid.*, 51 of document, 307 of archival file.

manner that reaches into the most intimate nooks and crannies and thus has something of an unreal quality to it. [...] Whenever [homosexual] relations appear in public and meet with the moral disapproval of the authoritative strata of our populace—namely, our working people, who normally have absolutely nothing to do with homosexuality—this law [on disturbing the peace] suffices to address such phenomena whenever they make their disturbing appearance in our society. Beyond this there is no need to pursue this act as a criminal offense with the force of our state organs and for those state organs to sniff out where [homosexual] relations might exist so that the prosecutorial apparatus is set in motion any time two people are found to be particularly close friends. It is clear that there is no such need.<sup>167</sup>

Renneberg's overarching goal was to drive this "egregious custom [*Unsitte*]" into the "darkest corner" where "we can no longer see or grasp it."<sup>168</sup> But unlike Schumann, who viewed an all-encompassing legal ban on homosexual acts as a necessary prophylactic, Renneberg believed that the law's "curative" powers were decidedly limited and that it could at most keep the more obvious manifestations of homosexual conduct at bay.

Mette provided Schumann with anecdotal evidence as to why the law's preventative function was so important. Mette claimed that

[o]n the basis of observations that have been made during the last decades, it cannot be doubted that the spread of homosexuality is to be expected if it is not restricted by punishment. Earlier I characterized this tendency with the term "fashion." During the last few decades, a fairly broad swath of our youth has been strongly interested in homosexuality. We have also had periods in which the liability of homosexuality to punishment was only nominal and during which no homosexual acts were prosecuted. I can recall times when we as psychiatrists were kept quite busy by this question, when the [gay] bars in Berlin were known to be open to everyone and there was a certain romanticism associated with spending time there. We have also had phases during which homosexuality was trendy in literary circles. I call your attention to the brief period of Klausmann [*sic*, presumably referring to Klaus Mann] and his friends during which one actually almost characterized homosexuality as a matter of good taste. This was

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<sup>167</sup> Ibid., 36 of document, 297 of archival file.

<sup>168</sup> Ibid., 42 of document, 303 of archival file.

only a phase for youth. But it still shows that something like this can occur if one lets go of the reins entirely in this domain.<sup>169</sup>

Mette was cautiously optimistic that the GDR might have found another way to ensure that homosexuality would never again become “fashionable” for youth, but he still counseled vigilance:

I of course must add: when we direct our gaze to the past, we turn it to times when there was nothing that could exert a positive influence over youth. We are now for the first time in the midst of a historical development that has a decidedly different character. Perhaps this would serve as a valuable and sufficient source of protection for today’s youth. I do not think that it is impossible for this to be the case. But if one is guided purely by the experiences of the past, then one cannot avoid admitting that habituation to homosexuality is possible.<sup>170</sup>

Toeplitz dismissed Mette’s fears about the likelihood of homosexuality regaining popularity among youth and also pointed out that § 175 had not served as an effective bulwark against such popularity in the past:

It is self-evident that homosexuality could not become fashionable through literary or other circles in our [stage of societal] development or in the future. Although the old § 175 was rarely or unevenly enforced, one cannot ignore the fact that its existence did not prevent homosexuality from becoming fashionable.<sup>171</sup>

While proponents of criminalization like Ranke were convinced that § 175 would continue to exert educational influence and serve as a moral cudgel, Toeplitz preferred to rely upon the tutelary impact of moral disapprobation that was not mediated through jurisprudence. Lekschas concurred:

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<sup>169</sup> Ibid., 37 of document, 298 of archival file.

<sup>170</sup> Ibid., 37-38 of document, 298-299 of archival file.

<sup>171</sup> Ibid., 40 of document, 301 of archival file.

I believe that we will retain the moral condemnation of homosexuality as before, and in my opinion it will become even more pointed. If we say nothing about it, then homosexuality will be a completely normal societal phenomenon [*eine durchaus gesellschaftsnormale Erscheinung*]. For this reason we must continue with the moral condemnation of such things so that these people will isolate themselves and be isolated, if only because of the fact that homosexuality is undoubtedly a phenomenon that is contrary to nature [*eine widernatürliche Angelegenheit*].<sup>172</sup>

How, then, did legal and non-legal disapprobation of homosexuality differ? The proponents of decriminalization asserted that non-legal moral censure would be more effective than its legal counterpart had been, but they did not explain why this would be the case beyond vague assurances of the power of Communist socialization. Lekschas's inability to define the advantages of decriminalization more clearly stemmed from his own uncertainty about the ramifications of sexual discourse within and beyond the realm of the law. Too little condemnatory talk about same-sex sexual acts might result in greater societal acceptance of them, Lekschas feared. But he was also concerned that too *much* talk about same-sex sexual acts—if generated by the prosecution of “real” homosexuals who would otherwise remain “isolated” and thus out of public view—might foster the spread of homosexual conduct because the populace would continually be reminded of its ongoing existence even under socialism.

Not all commission members who favored decriminalization of consensual male same-sex sexual acts also endorsed Toeplitz's and Lekschas's view that moral condemnation would replace legal sanctions for homosexual behavior. For Nathan, the congenital basis of a homosexual orientation meant that homosexual conduct should not be subject to criminal sanctions *or* moral condemnation—unless the rather vague notion

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<sup>172</sup> Ibid., 35 of document, 296 of archival file.

of “state necessity” dictated otherwise. But Nathan did not explicitly state why decriminalization would have no discernible effect on the prevalence of homosexual behavior. It would seem as if he was implicitly drawing upon Klimmer’s notion that given the ineradicable genetic basis of homosexuality, “real” homosexuals would engage in same-sex sexual acts whether they were criminalized or not.

Even though Klimmer did not believe that homosexuality was pathological, he did try to argue that—given the existing legal framework—homosexuality should be considered in legal terms only as a form of mental illness that absolved gay men of criminal responsibility on the basis of § 51 of the Penal Code. According to § 51, a person with mental illness that prevented her or him from harboring truly criminal intent could not be held legally accountable. For Klimmer, the existence of a homosexual orientation obviated the possibility that gay men were intentionally trying to violate the law, and thus should be considered a mental disability in court even though, from his perspective as a clinician, it did not warrant that designation. Klimmer “saw the use of § 51 not as an ideal solution but as an interim measure until § 175 is eliminated.”<sup>173</sup> Klimmer’s use of § 51 to exonerate “real” homosexuals invited criticism, not least because he seemed to be reinforcing the pathologization of homosexuality that he otherwise condemned.<sup>174</sup> Others worried that if the courts regularly invoked § 51 in § 175 cases, then punishable homosexual offenses would become the exception rather than the rule. Klimmer certainly would not have objected to such an outcome, and he hoped

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<sup>173</sup> Derra, “Sexualforscher in der DDR,” 19.

<sup>174</sup> SchA, Klimmer NL, folder: Sonderdrücke, Rudolf Klimmer, “Diskussion: Schlußwort zu ‘Die strafrechtliche Verantwortung für homosexuelle Handlungen,’” *Der medizinische Sachverständige* 55, no. 11/12 (November/December 1959), 253-255, here 253-254.

that it would make the opponents of decriminalization question whether it made sense to uphold § 175 at all.<sup>175</sup>

Beyond pointing out the usefulness of § 51 as an exculpatory tool, Klimmer defended himself against these accusations by noting that medicine and law proceeded from different conceptions of illness. While doctors perceived sexual abnormalities as “mere varieties of sexuality that do not stem from illness,” jurists considered mental illness, emotional conditions, and disruptions of the drives (*Triebstörungen*) as mitigating circumstances.<sup>176</sup> Klimmer insisted that he was not suggesting compulsory psychiatric treatment as an alternative to incarceration since he believed that institutionalizing gay men was akin to sending them to concentration camps.<sup>177</sup> For some members of the Penal Code reform commission, the indomitable nature of this drive and thus the applicability of § 51 to § 175 trials remained very much an open question. Ranke, for one, wondered whether it was possible for gay men to “control” their impulses. Unsurprisingly, Mette noted that it was “rightfully disputed” whether “the pathological mental disturbance [of homosexuality] is such that it suspends the will.”<sup>178</sup>

This debate about gay men’s capacity for self-control reflected a more fundamental uncertainty over the relationship between gendered characteristics and sexual propensities. Commission members wondered in particular whether gay men and lesbians engaged in comparable sexual acts. If the same-sex sexual behavior of men and women was analogous, after all, then how could the commission justify punishing men

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<sup>175</sup> SchA, Klimmer NL, folder: Sonderdrücke, Rudolf Klimmer, “Die strafrechtliche Verantwortlichkeit für homosexuelle Handlungen,” *Der medizinische Sachverständige* 54, no. 10 (October 1958), 210-215, here 215.

<sup>176</sup> Klimmer, “Die strafrechtliche Verantwortlichkeit für homosexuelle Handlungen,” 210-211.

<sup>177</sup> Klimmer, “Die strafrechtliche Verantwortlichkeit für homosexuelle Handlungen,” 214.

<sup>178</sup> BArch Berlin-Lichterfelde, DP1 VA 1325, Stenographisches Protokoll, Sitzung der Kommission zur Ausarbeitung eines neuen Strafgesetzbuches, September 8, 1952, 38 of document, 299 of archival file.

while exculpating women? Gerats believed that while there were specific forms of same-sex sexual conduct that were “just as dangerous when engaged in by women,” he reminded his colleagues that this would only matter if the commission voted to retain the all-encompassing criminalization of homosexual behavior—and it had already decided against doing so.<sup>179</sup> Other commission members who joined Gerats in endorsing the decriminalization of “simple” homosexuality nonetheless differed from him in emphasizing what they took to be fundamental differences between the sexual behavior of homosexual men and women. Toeplitz proclaimed that “[t]he normal form of lesbian love consists of reciprocal kissing”—in other words, beyond the scope of any law, gender-neutral or otherwise, that focused only on intercourse-like acts. But Gerats and Toeplitz agreed that there was no need for a new version of § 175a to encompass women since the absence of intercourse-like sexual acts between women *precluded* the possibility of coerced sexual encounters.<sup>180</sup> It is thus all the more surprising that the final 1952 draft of the law was gender-neutral.<sup>181</sup>

For Klimmer, § 175 was in egregious violation of the constitutional guarantee of gender equality before the law, and he made sure that governmental officials were aware of this even after deliberations on the 1952 Penal Code draft had ended. Whether men and women engaged in comparable forms of sexual behavior was immaterial; what mattered was that men were penalized for same-sex contacts while women were not.

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<sup>179</sup> Ibid., 43 of document, 304 of archival file.

<sup>180</sup> BArch Berlin-Lichterfelde, DP1 VA 1325, Stenographische Niederschrift, Sitzung der Kommission zur Ausarbeitung eines neuen Strafgesetzbuches, September 1, 1952, 55 of document, 236 of archival file.

<sup>181</sup> Among the most outspoken proponents of gender-neutral language on the commission were Melsheimer, Ranke, Thießen, Löwenthal, and Ziegler. Grau, “Sozialistische Moral,” 107; Grau, “Im Auftrag der Partei,” 115.

Rudolf Reinartz, who headed the Department of Legislative Matters at the Ministry of Justice, was of a different opinion. He was convinced that

there is no connection between the basic principle of equal rights for men and women as pronounced by the constitution of the German Democratic Republic and the question of the punishment of same-sex intimacy. [...] [Instead,] this stipulation is designed to ensure equal rights for men and women in political and, particularly, in economic life. The fact that the currently valid version of the Penal Code does not threaten punishment for same-sex intimacy between women does not at all lead to the conclusion that both sexes have the right to same-sex sexual acts on the basis of our constitution.<sup>182</sup>

Reinartz did not elaborate upon the rationale for the differential treatment of men and women under the law when it came to same-sex sexual activity, presumably because he did not see any reason to question it. Significantly, he did not believe that the presence *or* absence of criminal penalties necessarily connoted a “right to same-sex sexual acts” for members of either gender.

Klimmer vigorously rejected Reinartz’s circumscription of the scope of gender equality under East German law. While Klimmer admitted that “political and particularly economic rationales might have been deciding factors in introducing the article of the constitution devoted to the equality of the sexes, this basic principle of equality is also intended to apply to the equal treatment of all matters of life by the law.”<sup>183</sup> As he reminded Reinartz:

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<sup>182</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Rudolf Reinartz, Leiter der HA Gesetzgebung, MdJ, Berlin, to Rudolf Klimmer, Dresden, August 29, 1953.

<sup>183</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Rudolf Klimmer, Dresden, to Rudolf Reinartz, Leiter der HA Gesetzgebung, MdJ, Berlin, October 31, 1953.

How else but with the basic constitutional principle of equality can one overcome the old capitalist-patriarchal view of the woman as a working servant and the Nazi ideology of the woman as a reproductive machine, both of which are based upon the sociological differences between the sexes? Pointing to the physiological differences between the sexes does not get to the heart of the matter either. [...] As a matter of principle, it is only one's relationship to one's sexual partner that is at all relevant for criminal law.<sup>184</sup>

In other words, if the government absolved itself of the responsibility to ensure equal treatment before the law for men and women when it came to same-sex sexual acts, then it could undermine the viability—or at the very least the consistency—of its efforts to ensure gender equality in the private sphere more generally. Furthermore, Klimmer alerted Reinartz to the fact that he was calling into question not just the “right” to same-sex sexual behavior, but also the right of citizens to make claims upon the state on the basis of the constitution's ostensible commitment to gender equality on all fronts. And even though Klimmer linked his campaign for the right to sexual self-determination with the SED's aim to improve the social position of women, he reminded Reinartz that “the wording of [Articles 6 and 7 of the constitution] does not imply that only the legal provisions that are worse for women than they are for men should be changed and not vice versa.”<sup>185</sup>

The 1952 Penal Code reform commission ultimately decided upon the decriminalization of consensual same-sex sexual acts involving adult men—so-called “simple homosexuality” (*einfache Homosexualität*).<sup>186</sup> In the place of § 175 was § 134, which called for a maximum period of seven years of incarceration for male and female homosexual acts involving coercion, profit, or legal minors. § 134 thus replicated the

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<sup>184</sup> Ibid.

<sup>185</sup> Ibid.

<sup>186</sup> Grau, “Liberalisierung und Repression,” 325; Evans, “Moral State,” 359-360.

function of § 175a, but omitted reference to male prostitution or taking advantage of a relationship of dependence. § 135 replaced the existing § 183 on exhibitionism, and specified punishment for the “unnatural satisfaction of the sexual drive” in a manner that infringed upon the “moral sensibilities of the working people.”<sup>187</sup> This overlap of law and morality was alarmingly evocative of the Nazi emphasis on the “people’s healthy sensibility,” but the principle was selectively applied. The weight of legal *and* moral opprobrium fell most heavily on “unnatural” sexual acts that attracted public notice. There had in fact been three versions of § 134 before the final version of the 1952 StGB draft was released. Two iterations made reference to homosexual prostitution, and two formulations made use of gender-neutral language—but only the gender-neutral language made it to the final draft.<sup>188</sup>

Sensing a lull in legislative momentum, Klimmer hoped to expedite the process of reform by appealing to all thirteen political parties’ and mass organizations’ delegations as well as all sixteen members of the Legal Committee in the *Volkskammer* in late 1952 and early 1953. Although he only heard back from six of the parliamentary contingents and from individual committee members rather than the Legal Committee as a whole, the responses that he did receive were generally supportive of his stance or at the very least expressive of a willingness to forward Klimmer’s recommendations.<sup>189</sup>

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<sup>187</sup> Grau, “Im Auftrag der Partei,” 113, 115; Grau, “Sozialistische Moral,” 107.

<sup>188</sup> Grau, “Im Auftrag der Partei,” 116; BArch Berlin-Lichterfelde, DP1 VA 1326, Strafgesetzbuch der Deutschen Demokratischen Republik, Erstes Buch über die Bestrafung von Verbrechen, undated but presumably from late 1952, 30-31 of document, 290-291 of archival file. In contrast, the Soviet statute on homosexuality from 1934 rejected the gender-neutral language of the 1920 Bolshevik Penal Code. Healey, *Homosexual Desire in Revolutionary Russia*, 202.

<sup>189</sup> SchA, Klimmer NL, folder: Auszüge aus Briefen, Klimmer’s comment on unnumbered twelfth page of a compilation of epistolary excerpts; Grau, “Sozialistische Moral und Homosexualität,” 108-109; Grau, “Im Auftrag der Partei,” 115.

Hilde Benjamin assumed the position of Minister of Justice in 1953 when her predecessor, Max Fechner, was ousted from office due to his ostensible support for the June 17<sup>th</sup> uprising and his alleged homosexual acts.<sup>190</sup> While she had been supportive of decriminalizing consensual private same-sex sexual acts involving men during the Penal Code reform commission meetings leading up to the 1952 StGB draft, the repeal of § 175 was clearly not one of her highest priorities. She had been “of the opinion [already in 1950] that there are now more important matters for public discussion than § 175.” She thus saw “no need to share with [Klimmer her] opinion on this question, since [Klimmer] ostensibly [wished] to make use of it in public discussion.”<sup>191</sup> As far as the general public was concerned, Benjamin preferred to remain agnostic on the issue of homosexuality’s criminal status. In an effort to overcome Benjamin’s stonewalling, Klimmer made an unsuccessful appeal directly to SED First Secretary and head of state Walter Ulbricht in March 1954 to ““occupy himself with the question of homosexuality and do what he can to expedite the attainment of a progressive resolution of the issue.””<sup>192</sup> Klimmer even wrote to Vladimir Semyonov, the High Commissioner of the USSR in Germany, in June 1953 because of a directive that had been issued by the

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<sup>190</sup> After two years of pre-trial detention, Fechner was found guilty of inciting a boycott, spreading fascist propaganda, and having a sexual relationship with his male chauffeur and trying to seduce a male police officer who was under the age of twenty-one; he was sentenced to eight years in the penitentiary. Although he was granted clemency at the Third SED Party Congress in March 1956 and was reinstated as an SED member in 1958, he was never fully rehabilitated or exonerated. Rudi Beckert, *Lieber Genosse Max: Aufstieg und Fall des ersten Justizministers der DDR Max Fechner* (Berlin: Berliner Wissenschafts-Verlag, 2003), 247-248, 273, 278, 283-284; Grau, “Im Auftrag der Partei,” 117. Jennifer Evans points out that both Nazis and East German SED leaders made use of “homophobia to project a sense of normalcy during moments of intense sociopolitical modernization and change to rid themselves of dissenters within the leadership.” Evans, “Decriminalization,” 557. Since the workers’ uprising of June 17, 1953 constituted precisely such a “moment,” it effectively caused the regime to abandon its initial commitment—however lackluster it might have been—to reform. Evans, “*Bahnhof Boys*,” 636.

<sup>191</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Hilde Benjamin, Vizepräsident des Obersten Gerichts, to Rudolf Klimmer, Dresden, July 31, 1950; McLellan, *Love in the Time of Communism*, 117.

<sup>192</sup> Grau, “Sozialistische Moral und Homosexualität,” 112.

Presidium of the Supreme Soviet in the USSR to revise criminal legal statutes. He hoped to compare his stance regarding the legal status of homosexuality with that of his Soviet colleagues, but he apparently did not receive a response.<sup>193</sup>

Beyond political calculations, another brake on the process of legal reform was ongoing uncertainty about the relationship between socialist jurisprudence and morality. Walter Orschekowski, Director of the Institute for Criminal Law at the Karl Marx University in Leipzig and a leading member of the Penal Code reform committee devoted to sexual offenses, contradicted himself within the space of a single missive. On the one hand, Orschekowski affirmed the congruence of law and prevailing moral standards. On the other hand, he conceded Klimmer's point that "the liability to punishment of certain acts cannot depend upon the morality of the class that is dominant at any given time, even though our laws must always conform to the moral views of the dominant class."<sup>194</sup> In other words, while all statutes had to be grounded in morality, not all moral standards should necessarily manifest themselves in law. While Orschekowski ultimately agreed with Klimmer that sexual acts should be punishable only if they harmed legitimate individual or collective interests that were not defined by morality alone, he felt the need to defend the East German populace against Klimmer's insinuation that their moral standards were regressive:

To be sure, certain views and traditions stemming from outdated social orders still exert influence, albeit only to a degree and generally without great efficacy. The "sin of bodily lust" has long been refuted or restricted by certain religions. Our citizens consider sexual relations between men and women to be fundamentally

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<sup>193</sup> Grau, "Ein Leben im Kampf," 59.

<sup>194</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Walter Orschekowski, Direktor des Instituts für Strafrecht, Karl-Marx-Universität Leipzig, to Rudolf Klimmer, Dresden, October 1, 1956.

natural. Moral censure applies only to those relationships that are contrary to legal and customary forms.<sup>195</sup>

Even as Orschekowski challenged the notion that laws *should* be based on hegemonic moral standards, he implied that these standards *could* serve as a foundation for legislation because they emanated from a salutary valuation of heterosexual unions rather than small-minded prudishness. While Orschekowski believed the law could serve as the basis for the articulation of moral norms, he neglected to explain its weight relative to that of custom, or indeed, what “custom” actually meant in a newly minted socialist society.

Benjamin reconvened the Penal Code reform commission on August 20, 1958. Just a few months later, no less an authority than Minister of Health Max Sefrin encouraged Klimmer to share his expertise with the Penal Code reform commission.<sup>196</sup> But Sefrin’s encouragement did not constitute a formal invitation, and such an invitation was not forthcoming from the commission itself. Instead, the subcommittee entrusted with formulating sex crime statutes consulted in 1958 with two Leipzig-based doctors, Professor Hirschberg and Dr. Weigel. Both Hirschberg and Weigel effectively functioned as surrogates for Klimmer, since they advocated for decriminalization because “real homosexuality is not a crime [*Verbrechen*], but a genetic predisposition [*Anlage*]” *and* because it was so “uncommon.”<sup>197</sup> And Klimmer certainly did not give up putting pressure on governmental officials. In 1959, he tried to enlist the support of Dr. Kurt

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<sup>195</sup> Ibid.

<sup>196</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Max Sefrin, Minister für Gesundheitswesen, to Rudolf Klimmer, Dresden, January 15, 1959.

<sup>197</sup> Grau, “Sozialistische Moral und Homosexualität,” 115; BArch Berlin-Lichterfelde, DP1 VA 2376, Die Sexualverbrechen (Bericht der Leipziger Unterkommission für die StGB-Grundkommission am 20. Februar 1959), 10 of document, 551 of archival file.

Hager, who led the doctors' commission at the Politburo, by noting that “[w]e progressive doctors should not shy away from this important societal responsibility”—namely, bringing about the repeal of § 175.<sup>198</sup>

This new round of deliberations resulted in a setback for Klimmer's cause in that the Penal Code reform commission reversed the decision that its predecessor had reached in 1952. While the subcommittee devoted to sexual offenses once again recommended repeal of § 175 in October 1958, the Penal Code reform commission as a whole voted by a margin of eleven to six in favor of retaining criminal penalties for “simple” homosexuality in 1959.<sup>199</sup> While the subcommittee members were not made aware of the rationale behind this vote, they took note of the fact that the commission was following their recommendation to reduce the maximum period of incarceration for “real” homosexuality to two years (with a five-year sentencing ceiling for severe cases). They took this as a tacit admission on the commission's part of the decreased social danger posed by consensual same-sex sexual acts.<sup>200</sup> For his part, Renneberg observed that “[i]t is already the case that we do not punish a considerable proportion of homosexual acts. What matters is singling out the instances that are really harmful to society.”<sup>201</sup>

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<sup>198</sup> Grau, “Sozialistische Moral und Homosexualität,” 116.

<sup>199</sup> BArch Berlin-Lichterfelde, DP1 VA 2376, Protokoll über die 15. Sitzung der Kommission zur Ausarbeitung eines StGB am 20. Februar 1959, MdJ, HA Gesetzgebung, Berlin, February 25, 1959, 8 of document, 464 (back side) of archival file.

<sup>200</sup> Grau, “Liberalisierung und Repression,” 325-326, 328, 334-336. BArch Berlin-Lichterfelde, DP1 SE 2147, 3<sup>rd</sup> folder, Thesen für den Entwurf des neuen StGB Abschnitt Sexualverbrechen, abgefertigt von Lehmann, Sekretär der Unterkommission Leipzig zur Ausarbeitung des StGB, für Helmut Schmidt, MdJ, HA Gesetzgebung, Berlin, April 9, 1960, 4-5 of document; BArch Berlin-Lichterfelde, DP1 SE 2925, Band 2, Unterkommission Leipzig zur Ausarbeitung des StGB, IV. Kapitel des StGB: Straftaten gegen die Persönlichkeit des Menschen, December 14, 1960, 4 of document.

<sup>201</sup> BArch Berlin-Lichterfelde, DP1 VA 2376, Protokoll über die 15. Sitzung der Kommission zur Ausarbeitung eines StGB am 20. Februar 1959, MdJ, HA Gesetzgebung, Berlin, February 25, 1959, 8 of document, 464 (back side) of archival file.

There are a number of reasons for the commission's altered stance during the late 1950s and early 1960s. For one thing, the West German Penal Code draft that emerged in 1962 after eight years of deliberations retained a statute equivalent to § 175; this might have pushed East German lawmakers in a similar direction, even as they supposedly disavowed "bourgeois" jurisprudence.<sup>202</sup> Some commission members might have deemed an emphasis on the inviolability of sexual privacy to have been one of these "bourgeois tendencies," especially as the Soviet Union issued a new Penal Code of its own in 1960.<sup>203</sup> Foot-dragging continued to play a role as well. Klimmer's longtime ally Dieckmann advised Klimmer to be patient since the *Volkskammer* was too busy devising the Seven-Year Plan and commemorating the GDR's tenth anniversary to consider reforming § 175 at the time.<sup>204</sup>

Perhaps most significant was the fact that the proponents of decriminalization had not succeeded in convincing their opponents that revoking § 175 would not result in the dangerous spread of homosexual conduct. Gerats, a supporter of decriminalization, felt that the main task at hand was to "determine the qualifiers that render homosexuality a punishable offense"—in other words, to devise a new version of § 175a.<sup>205</sup> For military attorney Schille, however, the search for appropriate qualifiers was a spurious exercise.

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<sup>202</sup> Stümke, *Homosexuelle in Deutschland*, 136-138; Herzog, "Sexuality, Memory, Morality," 255-256.

<sup>203</sup> In the Soviet Penal Code of 1960, the newly formulated Paragraph 121 still stipulated a maximum sentence of five years for "simple" homosexuality and eight years for cases involving coercion, adult-minor relations, or a relationship of dependence. This was because of the "continuing consensus" that "male homosexuality was a moral failing that ought to be suppressed and eliminated from society." Healey, *Homosexual Desire in Revolutionary Russia*, 238, main text and fn 45.

<sup>204</sup> SchA, Klimmer NL, folder: Briefe prominenter gesellschaftlicher Vertreter über § 175 und Homosexualität, letter from Johannes Dieckmann, Präsident der Volkskammer der DDR, to Rudolf Klimmer, Dresden, August 12, 1959.

<sup>205</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Johannes Gerats, Institut für Strafrecht, Humboldt-Universität, Berlin, to Rudolf Klimmer, Dresden, February 13, 1959.

He noted that military commanders would greet an alteration of the law with incredulity since they viewed it as a necessary bulwark against the proliferation of sexual behavior in an all-male environment.<sup>206</sup> Dr. Wieck warned of the existence of a club for homosexuals in Dresden “into which very labile types can sneak and whose members are among the most vigorous proponents of repealing § 175.” In the face of such impunity, Wieck warned that “[h]omosexuals should not be given a *carte blanche* to do as they please [*Ein richtiger Freibrief sollte den Homosexuellen nicht in die Hand gedrückt werden*].”<sup>207</sup>

Faced with this climate of opinion, Klimmer reached out to Karl-Heinz Mehlan, Director of the Institute for Social Hygiene at the University of Rostock, who was not directly involved in the Penal Code deliberations but who undoubtedly exerted influence by virtue of his academic stature. Like Wieck, Mehlan was adamant that “it is not possible to reconcile opening the floodgates [*Tür und Tor zu öffnen*] to homosexual acts with the principles of socialist morality”; as far as he was aware, “such excessive permissiveness [*Freizügigkeit*] does not exist in the jurisprudence of other socialist countries.”<sup>208</sup> Mehlan’s concerns emanated not only from his understanding of socialist

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<sup>206</sup> Grau, “Liberalisierung und Repression,” 328; BArch Berlin-Lichterfelde, DP1 VA 2376, MdJ, HA Gesetzgebung, Berlin, Protokoll über die 15. Sitzung der Kommission zur Ausarbeitung eines StGB am 20. Februar 1959, February 25, 1959, 8 of document, 464 (back side) of archival file.

<sup>207</sup> Grau, “Sozialistische Moral und Homosexualität,” 115; BArch Berlin-Lichterfelde, DP1 VA 2376, “Die Sexualverbrechen” (Bericht der Leipziger Unterkommission für die StGB-Grundkommission am 20. Februar 1959), 10 of document, 551 of archival file.

<sup>208</sup> SchA, Klimmer NL, folder: Schriftwechsel Dienststellen, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Karl-Heinz Mehlan, Institut für Sozialhygiene, Universität Rostock, to Rudolf Klimmer, Dresden, December 17, 1959; Grau, “Sozialistische Moral und Homosexualität,” 130; McLellan, *Love in the Time of Communism*, 116. While Mehlan was certainly correct about the penal codes of the Soviet Union and Czechoslovakia at the time, he chose to ignore the “permissiveness” in other Soviet Bloc penal codes, such as those of Poland, Bulgaria, and Romania, as Klimmer did not hesitate to mention. SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Rudolf Klimmer, Dresden, to Karl-Heinz Mehlan, Institut für Sozialhygiene, Universität Rostock, December 29, 1959.

legal and moral principles, but even more so from his belief that “[i]t is difficult to devise a well-founded rationale for altering the law without knowing the extent and spread of homosexuality in the GDR. If you strive to achieve this goal, it would be necessary first to conduct such surveys.”<sup>209</sup> For Mehlan, then, decriminalization was contingent upon demonstrating not only that “real” homosexuals constituted a biological minority, but also that this minority was small enough not to pose a “threat” to society through the untrammelled spread of homosexual conduct under a more “permissive” legal framework. Mehlan seemed blithely unaware of the fact that Klimmer had tried in vain to establish precisely the kind of Institute for Sexual Research that would have enabled him to gather empirical data regarding the size of the homosexual population in East Germany.

Klimmer endeavored to convince Mehlan that his fears regarding the potential proliferation of homosexual relationships were unfounded:

I have no idea why the spread of homosexuality in the GDR should be any different than it was earlier in Germany and is today in other countries. It would certainly be very interesting for scientific purposes to conduct surveys about the prevalence of homosexuality in the GDR, but this is not necessary for a well-founded rationale to change the law.<sup>210</sup>

Like his ally Renn, Klimmer pointed to a different danger, namely the likelihood that if the FRG were to decriminalize homosexual acts before the GDR did, East German gay men would flee to West Germany in droves and thereby jeopardize the ongoing project of

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<sup>209</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Karl-Heinz Mehlan, Institut für Sozialhygiene, Universität Rostock, to Rudolf Klimmer, Dresden, December 17, 1959.

<sup>210</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Rudolf Klimmer, Dresden, to Karl-Heinz Mehlan, Institut für Sozialhygiene, Universität Rostock, December 29, 1959. Klimmer cited the widespread consensus that Kinsey’s findings regarding sexual behavior were broadly applicable to European countries as well. Ever persistent in his efforts to publish in the GDR, Klimmer hoped that Mehlan would edit a volume on homosexuality to which Klimmer could contribute an article about its “social hygienic consequences and prevalence.”

building socialism. Klimmer tried to convince Mehlan that this kind of mass exodus constituted a much greater “threat” than the prospect of the spread of homosexual behavior, since it was in the GDR’s own self-interest not to squander the enthusiasm or labor power of any of its citizens.<sup>211</sup> But Klimmer also posed a more fundamental challenge to Mehlan’s conceptual framework. While he agreed with Mehlan on the need to punish adults who had sexual relationships with underage youth, Klimmer insisted that “consensual homosexual acts between adults that do not take place in public are most certainly not against the principles of socialist morality, or at the very least pose no danger to society, and the latter factor should be definitive when it comes to the prospect of punishment.”<sup>212</sup> In other words, Klimmer conceived of a socialist morality that was compatible with the “bourgeois” notion of an inviolable sexual private sphere.

Dr. Lykke Aresin, one of the GDR’s foremost sexual counselors, lost herself in a web of contradictions as she sought to justify her premonition that the repeal of § 175 would cause “the number of homosexuals [to] increase markedly.” While she considered a propensity towards homosexual conduct to be a latent potentiality in every man, she also counseled that “one should not necessarily apply the law in a strict fashion.” Selective enforcement, however, would presumably have had a deleterious impact upon the government’s ability to keep homosexual conduct in check. The law did not need to apply to female homosexuality, in Aresin’s estimation, because “a woman generally does

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<sup>211</sup> Grau, “Sozialistische Moral und Homosexualität,” 116; SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Rudolf Klimmer, Dresden, to Karl-Heinz Mehlan, Institut für Sozialhygiene, Universität Rostock, December 29, 1959. In Klimmer’s estimation, the likelihood that the FRG would eliminate § 175 had become greater in the wake of the Superior Criminal Court’s (*Grosse Strafkammer*) recommendation in June 1959 that consensual same-sex sexual acts be decriminalized.

<sup>212</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Rudolf Klimmer, Dresden, to Karl-Heinz Mehlan, Institut für Sozialhygiene, Universität Rostock, December 29, 1959.

not stay with a female partner as soon as she has the opportunity to get a male partner.” But she also was certain that most men who engaged in same-sex sexual acts in prison resumed having carnal relations with women when they were released—an observation that contravened her certitude regarding the dangerous resilience in men of an acquired propensity for same-sex sexual acts.<sup>213</sup>

Klimmer continually argued that it was unjust to expect “real” homosexuals to remain abstinent in order to avoid running afoul of the law. This was because of the distinction he upheld between a blameless homosexual orientation on the one hand and potentially blameworthy homosexual conduct on the other hand. Since bisexuals, for instance, were capable of satisfying their sexual drive by engaging in heterosexual sex, their legal accountability for same-sex sexual acts was contingent upon the relative weight of their heterosexual and homosexual inclinations. According to this logic, heterosexuals who did not have a sexual disorder could be held legally accountable for engaging in homosexual conduct since they did not *have* to engage in such behavior to satisfy their sexual drive.<sup>214</sup> Hirschberg implicitly ventriloquized Klimmer in the reform commission by observing that “[w]e do not want to condemn real homosexuals, but we are also not prepared to tolerate everything associated with them. Is it not possible to encompass and punish all who are not truly homosexual with other laws?”<sup>215</sup> Aresin, on contrast, felt that “real” homosexuals also had other options for satisfying their sexual drive, although she did not specify what these might be. From her point of view,

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<sup>213</sup> BArch Berlin-Lichterfelde, DP1 VA 2376, Die Sexualverbrechen (Bericht der Leipziger Unterkommission für die StGB-Grundkommission am 20. Februar 1959), 10 of document, 551 of archival file; Grau, “Sozialistische Moral und Homosexualität,” 115.

<sup>214</sup> Klimmer, “Die strafrechtliche Verantwortlichkeit für homosexuelle Handlungen,” 213.

<sup>215</sup> BArch Berlin-Lichterfelde, DP1 VA 2376, Die Sexualverbrechen (Bericht der Leipziger Unterkommission für die StGB-Grundkommission am 20. Februar 1959), 11 of document, 552 of archival file.

“[h]omosexuals are unfortunate people to be pitied, but one must be able to demand that they restrain themselves, since the same is expected of us as far as our sexual drive is concerned.”<sup>216</sup> She did not see any need to acknowledge that the kind of sexual restraint expected of homosexuals and heterosexuals who did not wish to cross the line into illegality was of a fundamentally different nature.

As in 1952, belief in the congenital origin of homosexuality did not necessarily connote unqualified—or any—support for decriminalization. Lykke Aresin’s husband, Professor Norbert Aresin, shared Hirschberg’s stance regarding the congenital origin of homosexuality, but he also wanted to avoid “the danger that the populace might come to believe that homosexuality was tolerated” if the law were to be repealed. But since the reform commission was supposed to draft legislation that would be suitable for later stages of socialist development that would no longer be conducive to the efflorescence of homosexuality, he was willing to entertain the notion that a law akin to § 175 might no longer be necessary—at some unspecified point in the future.<sup>217</sup>

Just five years after Schille had convinced the Penal Code reform commission of the danger posed by the potentially rampant spread of homosexual conduct throughout the ranks of the military, Benjamin insisted during a new round of Penal Code reform deliberations that “criminal penalties for homosexuality are not needed to protect the interests of the military.”<sup>218</sup> What had changed? Grau offers a number of explanations for this shift in the government’s stance. By 1968, he argues, the SED had secured itself

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<sup>216</sup> Ibid.

<sup>217</sup> Ibid.

<sup>218</sup> BArch Berlin-Lichterfelde, DP1 SE 2148 (section of file: UK IV: Straftaten gegen die Persönlichkeit), MdJ, HA Recht, Protokoll über die 5. Sitzung der StGB-Kommission am 17./18. Januar 1964, February 18, 1964, 12 of document. Benjamin had decided to create a new Penal Code reform commission on April 4, 1963.

politically and economically and thus felt prepared to undertake legislative reform.<sup>219</sup> This alleged self-confidence overrode the SED's lingering concerns about the demographic consequences of decriminalization.<sup>220</sup> Grau also maintains that by the mid-1960s, there was a general consensus among East German doctors and jurists that a homosexual orientation had a biological basis and that homosexual conduct was thus not necessarily a consequence of moral depravity. He also asserts that they had come to agree that individuals could not necessarily be held criminally accountable for violations of socialist morality, and that § 175 had in any event failed to meet its goal of reducing the incidence of same-sex eroticism. Furthermore, it dawned on East German jurists that other countries had already decriminalized "simple" homosexuality without adverse consequences.<sup>221</sup> But Grau himself shows that many jurists and doctors in the GDR already held these convictions throughout the 1950s. Was the consensus regarding these factors really that much stronger during the 1960s than it had been in the 1950s? And if so, how exactly does one explain the recrudescence of the spirit of legislative sex reform that had waned after its postwar high point in the late 1940s and early 1950s?

To address these questions, it is instructive to look at prosecution rates for homosexual offenses during the 1940s and 1950s. Despite widespread concern about the upheaval in sexual mores and the spread of venereal disease in the immediate aftermath of the war, § 175 was not vigorously enforced in the SBZ. There were 36 convictions in

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<sup>219</sup> Grau, "Sozialistische Moral und Homosexualität," 104. Grau is applying to the GDR the rationale behind the protracted nature of legislative reform in Weimar Germany. As early as 1920, Reich President Friedrich Ebert (SPD) had supported the repeal of § 175 in principle, but he sought to delay implementation of any changes until the Weimar government attained greater political stability. Ramsey, "Rites of *Artgenossen*," 90.

<sup>220</sup> Grau, "Im Auftrag der Partei," 111, 117.

<sup>221</sup> Grau, "Sozialistische Moral und Homosexualität," 119; Grau, "Liberalisierung und Repression," 331-332.

1946, 46 in 1947, 22 in 1948, and 25 during the first half of 1949.<sup>222</sup> By 1957, there were 89 adult men and 20 youths convicted of violating § 175, while 265 adult men and 6 minors were found guilty of § 175a-related (sections 1-3) infractions in the GDR. Prosecution rates had risen since the occupation period, but remained relatively modest.<sup>223</sup> During the same year, 81 male adults and youths were found guilty of the criminal offense of homosexual prostitution (§ 175a, section 4), whereas 551 women were found to have violated restrictions that classified certain forms of heterosexual prostitution as a misdemeanor (§ 361).<sup>224</sup> As these conviction rates reveal, East German authorities were enforcing § 175a with greater vigor than § 175.

By 1958, numerous historians aver that “[t]he criminalization of [so-called] simple homosexuality effectively ended in the GDR” and that authorities continued to

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<sup>222</sup> Grau, “Sozialistische Moral und Homosexualität,” 89. For a more detailed breakdown of sexual offense statistics for 1948 and 1949, see BArch Berlin-Lichterfelde, DP1 VA 42 and DP1 VA 49.

<sup>223</sup> § 175a sections 1-3 encompassed same-sex sexual acts involving abuse, coercion, and taking advantage of a relationship of dependence. It is difficult to track exact prosecution rates for § 175 since East German crime statisticians aggregated figures for a number of different sexual offenses beginning in 1951. This might have been a reflection of the government’s dogmatic insistence that sexual offenses would decline in prevalence in socialist society or simply of the haphazard and incomplete nature of recordkeeping. Grau, “Liberalisierung und Repression,” 329; Edward Ross Dickinson, “Policing Sex in Germany, 1882-1982: A Preliminary Statistical Analysis,” *Journal of the History of Sexuality* 16, no. 2 (May 2007), 204-250, here 206. I have corroborated the figures for 1957 in a number of different sources: Grau, “Sozialistische Moral und Homosexualität,” 114; Grau, “Liberalisierung und Repression,” 330; BArch Berlin-Lichterfelde, DP1 VA 2376, Thesen und Vorschläge für den strafrechtlichen Schutz von “Jugend und Familie,” Gesetzgebungskommission “Jugend und Familie,” Professor Lekschas and Professor Grathenauer, Halle, February 4, 1959, 9a of document, 479 of archival file; BArch Berlin-Lichterfelde, DP1 SE 3027, Begründung des III. Kapitels [des StGB]: Straftaten gegen die Persönlichkeit, undated but ostensibly from late 1961, 16 of document. To put these numbers in perspective, there were 9,375 § 175 convictions during the Weimar Republic (1919-1933) and as many as 45,000 § 175 convictions in West Germany between 1950 and 1965. Franz X. Eder, *Kultur der Begierde: Eine Geschichte der Sexualität* (Munich: C.H. Beck Verlag, 2002), 219. Indeed, the rate of § 175 convictions in the FRG rose by 44 percent between 1951 and 1959; Dickinson, “Policing Sex in Germany,” 236.

<sup>224</sup> BArch Berlin-Lichterfelde, DP1 VA 2376, Die Sexualverbrechen (Bericht der Leipziger Unterkommission für die StGB-Grundkommission am 20. Februar 1959), 4 of document, 545 of archival file; BArch Berlin-Lichterfelde, DP1 SE 3027, Begründung des III. Kapitels [des StGB]: Straftaten gegen die Persönlichkeit, undated but ostensibly from late 1961, 18 of document.

enforce only § 175a.<sup>225</sup> Why was this the case? Already in the 1920s, Soviet legal theorist Evgeny Pashukanis had “rejected as ideological the central legal role of the ‘bourgeois subject,’ the willing, rights-oriented individual” and sought to replace it with a focus on “social effect rather than individual intent or guilt.”<sup>226</sup> This principle manifested itself in Article 6 of the Soviet Penal Code and in the promulgation in the GDR on December 11, 1957 of the Supplement to the Penal Code (*Strafrechtsergänzungsgesetz*, or StEG), which the reform commission had been considering since 1952.<sup>227</sup> According to the StEG, an act did not warrant criminal punishment if it had no deleterious effects upon individuals, society, or the project of constructing socialism. This exemption from punishment was applicable *even if* the act in question remained a criminal offense according to the letter of the law in the still extant “bourgeois” Penal Code.

If this edict resulted in a rapid diminution in the number of § 175 prosecutions, and it would appear as if it did, then this turn of events constituted a supreme irony.

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<sup>225</sup> Schäfer, *Widernatürliche Unzucht*, 123-126; Grau, “Sozialistische Moral und Homosexualität,” 113-114; Grau, “Liberalisierung und Repression,” 325, 329; Bert Thinius, “Erfahrungen schwuler Männer in der DDR und in Deutschland Ost,” in Setz, ed., *Homosexualität in der DDR: Materialien und Meinungen*, 9-88, here 16; Brühl, “Sozialistisch und schwul,” 99 [quoting Rainer Herr, *Anders bewegt: 100 Jahre Schwulenbewegung in Deutschland* (Hamburg: MännerschwarmSkript Verlag, 1999), 43], 103; Evans, “Decriminalization,” 556; Kowalski, *Homosexualität in der DDR*, 19, 23; Steakley, “Gays under Socialism,” 16; Beachy, “German Invention of Homosexuality,” 838. Joshua Feinstein makes the more modest claim that gay men’s “legal situation improved on paper after 1957.” Joshua Feinstein, *The Triumph of the Ordinary: Depictions of Daily Life in the East German Cinema, 1949-1989* (Chapel Hill: University of North Carolina Press, 2002), 219. Josie McLellan is also more cautious, noting that “[p]rosecutions for same-sex relations in the 1960s were probably not that numerous” even as she acknowledges that figures for the 1960s have not yet been located. McLellan, *Love in the Time of Communism*, 118, drawing upon Klaus Berdl and Vera Kruber, “Zur Statistik der Strafverfolgung homosexueller Männer in der SBZ und DDR bis 1959,” *Invertito-Jahrbuch für die Geschichte der Homosexualitäten* 12 (2010), 58-124. Indeed, for McLellan, the decision to retain § 175 reflected “a deliberate decision to ignore calls for a change in the law” and thus contributed to the ongoing stigmatization of homosexuals. McLellan, *Love in the Time of Communism*, 115. Because of the ongoing taboo surrounding the public discussion of homosexuality, many East Germans might not have known even if § 175 prosecutions had effectively ceased in 1957. Kowalski, *Homosexualität in der DDR*, 25, fn 48.

<sup>226</sup> Peter C. Caldwell, *Dictatorship, State Planning, and Social Theory in the German Democratic Republic* (New York: Cambridge University Press, 2003), 61.

<sup>227</sup> BArch Berlin-Lichterfelde, DP1 VA 1325, Stenographische Niederschrift: Sitzung der Gesetzgebungskommission, September 1, 1952, 1 of document, 187 of archival file.

Klimmer, after all, had been advocating for decriminalization on the basis of the “bourgeois” concept of homosexual men as rights-bearing individuals. But it took a measure that was supposed to dismantle the very concept of the “bourgeois” rights-bearing individual in socialist jurisprudence to effectively grant gay men the “right” to engage in consensual same-sex sexual acts without facing the prospect of legal censure. This paradoxical outcome would only hold true if East German authorities had come to agree with Klimmer about the lack of harm to society posed by private homosexual conduct. As the deliberations of the Penal Code reform commission during the late 1950s revealed, no such unanimity existed. And in retrospect East German jurists admitted that some offenses had retained their criminal status even though they were not harmful to society because they had “‘traditionally’ been characterized as a crime” in the “historical legal consciousness of the working people.”<sup>228</sup> Consequently, it would have been “harmful to declare suddenly that such an act is no longer a crime.” If the StEG had rendered § 175 effectively moot, after all, then why did the Penal Code reform commission vote to retain the law in 1959?<sup>229</sup>

It would appear as if the implementation of § 175 apparently did not come to a full stop in 1957. At the very least, it was not common knowledge that the StEG had rendered the prosecutorial implications of the statute largely moot. Klimmer expressed his displeasure that some individuals were still facing § 175 prosecutions in late 1958:

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<sup>228</sup> BArch Berlin-Lichterfelde, DP1 SE 1491, Teil 1, Thesen zur wissenschaftlichen Konferenz des Instituts für Staats- und Rechtswissenschaftliche Forschung der Deutschen Akademie für Staats- und Rechtswissenschaft “Walter Ulbricht” zum Thema: “Grundsätzliche Probleme der Ausarbeitung des neuen Strafgesetzbuches der DDR” am 5. und 6. November 1963, 23-24 of document.

<sup>229</sup> Indeed, while § 175 prosecutions might have stopped or slowed considerably after the issuance of the StEG, the number of § 175a convictions rose to 331 adults and 6 youths in 1959. BArch Berlin-Lichterfelde, DP1 SE 2925, Band 1, Protokoll über die 26. Sitzung der Grundkommission StGB am 16./17. September 1960 im MdJ, Anlage 1: Zur Begründung der gesetzlichen Bestimmungen über die Bekämpfung der Verbrechen gegen Jugend und Familie, 1 of document.

I do not know the accused, and I condemn their frequently changing sexual partners and their having sex with each other. But I also disapprove of the fact that five people have been detained for months for violating § 175, not § 175a, as the investigation unfolds, and that § 175 cases are still being brought to trial in this day and age. Perhaps the atmosphere is more progressive in Berlin, but in the rest of the GDR there will still be many such cases. There are also heterosexuals who frequently have sex with changing partners, and their behavior is not liable to punishment. Is the normal, healthy sexual life of GDR citizens really harmed by this?<sup>230</sup>

While Klimmer admitted that the promiscuity of the defendants was far from laudable, he also blamed the lingering influence of Dressler and Naundorf's overly facile equation of law and morality for the classification of these men's behavior as a criminal offense.

The StEG was but one component of an unfolding debate among jurists and governmental officials regarding the role of criminal law in the ongoing project of building socialism. There was an increasing recognition on the part of jurists that crimes were not necessarily a manifestation of counter-revolutionary class-based antagonism directed towards society as a whole. Despite the rallying cries against "bourgeois" tendencies at the 1958 Babelsberg conference, the 1960s witnessed a return to a more conventional criminological focus on the impact of crimes on individuals.<sup>231</sup> With the exception of the "qualified" cases of homosexuality involving profit, coercion, or adult-youth contacts, the impact of homosexual conduct on individuals was negligible and its origin was rooted in biology, not ideological backwardness. It was thus increasingly untenable to maintain that "simple" homosexuality accorded with socialist

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<sup>230</sup> SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter from Rudolf Klimmer, Dresden, to Johannes Gerats, Institut für Strafrecht, Humboldt-Universität, Berlin, December 31, 1958.

<sup>231</sup> Grau, "Liberalisierung und Repression," 331.

jurisprudence's understanding of what constituted a criminal offense.<sup>232</sup> Significantly, this was reflected in the new Czechoslovak Penal Code of 1961, which retained criminal penalties only for same-sex sexual acts that involved legal minors, the acceptance or furnishing of payment, a relationship of dependence, or disturbing the peace—and East German jurists took note of this development.<sup>233</sup>

According to the State Secretary for Higher and Vocational Education, no other set of East German laws had been drafted with the involvement of so many criminologists, psychologists, psychiatrists, and pedagogical experts.<sup>234</sup> In other words, in the wake of Ulbricht's New Economic System (NÖSPL), which placed a premium on the value of (social) scientific knowledge for socialist governance and economic policy, jurists might have been inclined to assign greater weight to expert opinion than to the previously much vaunted "moral views of the working people."<sup>235</sup> East German lawmakers were doubtlessly also aware of the profound influence exerted in West Germany by a 1963 book called *Sexualität und Verbrechen (Sexuality and Crime)*, in which the FRG's foremost legal and sexological experts provided a scathing critique of the 1962 West German Penal Code draft's conflation of moralizing censure with criminal law.<sup>236</sup>

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<sup>232</sup> Grau, "Liberalisierung und Repression," 338, 340.

<sup>233</sup> BArch Berlin-Lichterfelde, DP1 SE 2952, 1<sup>st</sup> binder, Gesetzessammlung der Tschechoslowakischen Sozialistischen Republik, Jahrgang 1961, Teil 65, December 8, 1961, 465-508 [original: 140. Testni zákon ze dne 29. Listopadu 1961], roughly translated by Walter Recht, Institut für Rechtswissenschaft Potsdam-Babelsberg, May 5, 1962, 129-130 of document.

<sup>234</sup> BArch Berlin-Lichterfelde, DP1 VA 1860, Bericht über die Diskussionen der StGB-Kommission von Februar-März 1967, document undated but from after April 26, 1967, 13 of document.

<sup>235</sup> Greg Eghigian, "The Psychologization of the Socialist Self: East German Forensic Psychology and its Deviants, 1945-1975," *German History* 22, no. 2 (2004), 181-205, here 193.

<sup>236</sup> Fritz Bauer, Hans Bürger-Prinz, Hans Giese, Herbert Jäger, eds., *Sexualität und Verbrechen. Beiträge zur Strafrechtsreform* (Frankfurt am Main: Fischer, 1963); Herzog, "Sexuality, Memory, Morality," 256-257.

It is noteworthy that a November 1963 position paper from the Penal Code subcommittee devoted to sexual offenses characterized a homosexual orientation as a “biological,” but not a “medical” or “psychiatric” problem. This was an important distinction. While Orschekowski’s endorsement of decriminalization in the late 1950s had been accompanied by his expectation that doctors would be able to alter a homosexual orientation, he was far less sanguine about the possibility of a cure by 1963.<sup>237</sup> Most significantly, the research group adopted Klimmer’s, Toeplitz’s, and Weber’s stance that even if private, consensual homosexual conduct did not meet with the moral approbation of the “working people,” there was no reason to subject it to criminal penalties since it did not have any harmful consequences for society.<sup>238</sup>

But it is crucial to bear in mind that despite Grau’s assertion to the contrary, there was still no consensus regarding the primacy of biological explanations for the etiology of homosexuality.<sup>239</sup> Just as earlier rounds of deliberations had revealed that belief in the congenital origin of homosexuality did not automatically connote support for decriminalization, the shift towards support for decriminalization in the 1960s did not necessarily entail an abandonment of the seduction hypothesis or an unqualified

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<sup>237</sup> Grau, “Liberalisierung und Repression,” 337-338; BArch Berlin-Lichterfelde, DP1 SE 2148 (section of file: Unterkommission IV—Straftaten gegen die Persönlichkeit), Straftaten gegen die Persönlichkeit (Vorlage der Unterkommission IV für die 5. Sitzung der StGB-Kommission am 17./18. Januar 1964), 22 of document.

<sup>238</sup> Grau, “Liberalisierung und Repression,” 338, 340; SchA, Klimmer NL, folder: Schriftwechsel DS, Behörden, Dr. med. Rudolf Klimmer, 1947-1958, letter fragment from Johannes Gerats, Institut für Strafrecht, Humboldt-Universität, Berlin, unspecified addressee (perhaps Klimmer?), undated but perhaps on or near November 10, 1956.

<sup>239</sup> Like Grau, Jennifer Evans believes that “biological explanatory devices” had become “central instruments of state power” in the GDR. This was true in many respects, but not necessarily when it came to officials’ understanding of the etiology of same-sex desire. Evans, “Decriminalization,” 554. Grossmann provides an analogous argument about the Weimar-era KPD: “Marxism did not provide a theory of reproduction or sexuality or even a powerful enough approach to analyzing them. Indeed, its general explanatory framework that material conditions determine the quality of human life could be easily adapted to the apparently ‘material’ facts of biology and the necessity of biological solutions.” Grossmann, *Reforming Sex*, 74-75.

endorsement of the genetic basis of same-sex sexual behavior.<sup>240</sup> Because Penal Code reform commission members believed that “the sexual maturation process can be delayed and engaging in homosexual acts can also endanger or thwart the normal course of sexual, moral, and character development [even] for young people over the age of eighteen,” they agreed in 1964 to set the age of consent for the new law at twenty-one, even though the legal age of majority was eighteen.<sup>241</sup>

Hinderer opined that “[i]f we extend criminal penalties for same-sex sexual acts to women, then we will only provoke discussions in public that would distract people from the main issue. The cases that are pertinent to criminal law involve protecting youth.”<sup>242</sup> But the 1963 research group was critical of the differential treatment of men and women under the existing law and called for new legislation that would encompass male and female offenders and victims in cases of same-sex “seduction” involving adults and youth.<sup>243</sup> Thus the decriminalization of male consensual same-sex sexual acts occurred alongside the introduction of criminal penalties for women who engaged in homosexual behavior that transgressed against individual or societal interests.

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<sup>240</sup> BArch Berlin-Lichterfelde, DP1 SE 2148 (section of file: Unterkommission IV—Straftaten gegen die Persönlichkeit), Straftaten gegen die Persönlichkeit (Vorlage der Unterkommission IV für die 5. Sitzung der StGB-Kommission am 17./18. Januar 1964), 22 of document. By 1970, Klimmer claimed that “[t]he notion that one can be seduced into homosexuality stems in large part from homosexuals themselves. They brought up this contention of their own volition in court cases” because they thought it might have exculpatory implications. In other words, the resilience of the seduction hypothesis was at least partially attributable to courtroom strategies for outmaneuvering a law designed to prevent homosexual seduction. SchA, Klimmer NL, folder: Sonderdrücke, Rudolf Klimmer, “Zur Frage des Schutzalters bei homosexuellen Handlungen,” *Medizinische Klinik. Wochenschrift für Klinik und Praxis* 65, no. 36 (September 4, 1970), 1603-1606 in the original, 1-11 in transcript, here 2-3.

<sup>241</sup> BArch Berlin-Lichterfelde, DP1 SE 2148 (section of file: UK IV: Straftaten gegen die Persönlichkeit), Straftaten gegen die Persönlichkeit (Vorlage der Unterkommission IV für die Sitzung der StGB-Grundkommission am 17./18. Januar 1964), 22 of document. The age of protection for § 175a offenses had been set at twenty-one in the GDR since 1950; Kowalski, *Homosexualität in der DDR*, 36.

<sup>242</sup> BArch Berlin-Lichterfelde, DP1 SE 2148 (section of file: UK IV: Straftaten gegen die Persönlichkeit), Protokoll über die 5. Sitzung der StGB-Kommission am 17./18. Januar 1964, MdJ, HA Recht, Berlin, February 18, 1964, 14 of document.

<sup>243</sup> Grau, “Liberalisierung und Repression,” 339.

In 1967, Dr. Manfred Hausmann contributed an article to *Der Kreis* about the impending decriminalization of male homosexuality in East Germany. He informed the journal's international homophile audience that "[t]he new Penal Code of the GDR builds upon the latest scientific findings and constitutes extremely significant progress. As we have learned, Dr. Klimmer's book *Die Homosexualität* [...] was made available to the Ministry of Justice and the commission responsible for Penal Code reform."<sup>244</sup> The implication was that Klimmer's campaign had not been in vain even though he had never been offered a seat at the proverbial table. Klimmer expressed frustration at the many setbacks that he encountered during the course of his campaign, but he acknowledged that "[t]he minimum sentence of six months was eliminated from the final version [of § 151, the law that replaced both § 175 and § 175a], and the possibility of probation was added. So I did accomplish something after all."<sup>245</sup> Klimmer was decidedly less sanguine, however, about the societal ramifications of the elimination of § 175: "Nothing has actually changed for homosexuals since the reform of the paragraph. There are no

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<sup>244</sup> SchA, Klimmer NL, Publikationen von Dr. med. Rudolf Klimmer über Homosexualität, Manfred Hausmann, "Strafrechtsreform in der DDR," *Der Kreis* 35, no. 3 (1967), 6. The Bolsheviks in the immediate aftermath of the October Revolution of 1917 had also relied upon scientific authority to justify decriminalization; they had come to accept that "the male homosexual might be a harmless human variant—or an anomaly medicine might correct." Dan Healey, "Unruly Identities: Soviet Psychiatry Confronts the 'Female Homosexual' of the 1920s," in *Gender in Russian History and Culture, 1800-1990*, ed. Linda Edmondson (London: Palgrave Macmillan, 2001), 116-138, here 124.

<sup>245</sup> Derra, "Sexualforscher in der DDR," 20. § 151 classified male and female same-sex sexual activity between an adult and a legal minor under the age of eighteen as a criminal offense. This meant that East German women could be penalized for same-sex sexual activity for the first time. It is also important to bear in mind that the age of consent for opposite-sex sexual encounters remained at fourteen. The Penal Code reform commission might have rejected the notion of "homosexual 'seduction' as 'absurd' [by 1968,] [...] [b]ut [it] still felt the need to 'protect' those between 14 and 18" from same-sex seduction without affording a comparable safeguard against opposite-sex sexual activity. McLellan, *Love in the Time of Communism*, 117.

homosexual periodicals and no homosexual bars. The state of affairs is depressing.”<sup>246</sup>

Decriminalization of consensual homosexual acts did not connote governmental tolerance of same-sex sexual activity, and societally enforced taboos remained very much in place after 1968.<sup>247</sup> But the same could be said about the decriminalization of homosexual conduct in most other European countries at the time. During the 1960s, the government began providing financial support for the research of endocrinologist Günter Dörner into the possibility of preventing the development of a homosexual orientation by adjusting the hormonal balance in utero. Klimmer’s tepid and belated critique of Dörner was particularly striking given his earlier stance on the impossibility of devising a cure for a homosexual orientation.<sup>248</sup>

Klimmer would have been heartened to learn that respect for sexual privacy ultimately played a decisive role in East German legislators’ decision to overturn § 175.

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<sup>246</sup> Derra, “Sexualforscher in der DDR,” 20. While this was in large part due to the SED’s ban on autonomous activism, it also was intended to mitigate “the presumably negative consequences of any ‘popularization’ of homosexuality” that might have accompanied decriminalization. Grau, “Sozialistische Moral und Homosexualität,” 119. Evans agrees that “[d]ecriminalization had hardly challenged the social stigma that the heteronormative gaze attached to the allegedly deleterious impact of same-sex acts on fragile adolescent sexuality and the maintenance of family-based male social roles,” but she nonetheless contends that “efforts at controlling sexual desire backfired in significant ways, enabling subcultural self-determination and emboldening citizens after 1968 to take the regime to task for failing to live up to the spirit of the new law.” Evans, “Decriminalization,” 564, 554.

<sup>247</sup> Hans Szewczyk, “Die Begutachtung der Zurechnungsfähigkeit” (1966), 48 as quoted by Kowalski, *Homosexualität in der DDR*, 35. A similar point has been made in Evans, “Decriminalization,” 561; Joachim S. Hohmann, ed., *Sexuologie in der DDR* (Berlin: Dietz Verlag, 1991), 20; Grau, “Sozialistische Moral und Homosexualität,” 104; McLellan, *Love in the Time of Communism*, 118.

<sup>248</sup> Florian G. Mildenberger, “Socialist Eugenics and Homosexuality in the GDR: The Case of Günter Dörner,” in *After The History of Sexuality: German Genealogies With and Beyond Foucault*, eds. Scott Spector, Helmut Puff, and Dagmar Herzog (New York: Berghahn, 2012), 216-230. “Klimmer, who knows Dörner personally, states that Dörner is basically uninterested in sexuality and only makes his extravagant claims in order to receive research funding.” Steakley, “Gays under Socialism,” 18; Kowalski, *Homosexualität in der DDR*, 38, fn 1. As late as 1976, Klimmer continued to hedge in his assessment of Dörner’s findings: “There is probably something to Dörner’s research, but I seriously doubt that its implications can be generalized and applied to all gay men.” Derra, “Sexualforscher in der DDR,” 20. Klimmer’s awareness of a long history of unsuccessful experiments involving the role of embryonic development, family history, hormones, and brain structure in the etiology of a homosexual orientation might have influenced his response to Dörner’s work. SchA, Klimmer NL, folder: HE-DDR, Rudolf Klimmer, “Die Homosexualität,” April 30, 1947, 5 of document.

As Hans Szewczyk, Professor of Psychology at the Charité in East Berlin, commented in retrospect:

In the discussion of the new Penal Code promulgated in 1968, legislators recognized the necessity of staying out of the private lives of citizens and subjected only those sexual acts to criminal penalty that imperiled human development, such as rape or the homosexual seduction of youth. Trends in sexual offenses since then have confirmed the legislators' wisdom. Sexual misconduct (*Fehlverhalten*) cannot be overcome with punishment, but instead with education and—for pathological instances—with therapy, primarily psychotherapy.<sup>249</sup>

From this perspective, it becomes easier to understand why the 1968 Penal Code imposed harsher criminal penalties for heterosexual prostitution. At first glance, the “progressive” approach to homosexuality and the “repressive” stance towards prostitution would seem to have been at odds with one another. But if viewed from the standpoint of the perceived need to respect the private sphere in the GDR, they were in fact quite compatible: prostitution required more stringent regulation precisely because it was a *public* phenomenon, whereas consensual same-sex sexual acts that remained within the confines of their practitioners' four walls seemed less threatening to society as a whole.<sup>250</sup>

### **The Resonance of Klimmer's Ideas in West Germany**

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<sup>249</sup> Hans Szewczyk, “Die Entwicklung des Sexualverhaltens,” *Deine Gesundheit* 12 (December 1983), 356-359, here 357.

<sup>250</sup> The harsher stance regarding heterosexual prostitution in the 1968 Penal Code constitutes a decisive shift from the opinion professed during the late 1950s by the research group on sexual offenses, which judged same-sex prostitution more harshly: “One cannot equate homosexual and heterosexual prostitution. Whereas the latter involves partners having sex in a manner of which we approve (the only thing of which we do not approve is how and by what means the partners enter into a sexual relationship), the former entails sexual acts that in their form are contrary to the views of the working people and on top of that are not based upon a sexual deviation [*Verirrung*] on the part of the male prostitute.” BArch Berlin-Lichterfelde, DP1 VA 2376, Die Sexualverbrechen (Bericht der Leipziger Unterkommission für die StGB-Grundkommission am 20. Februar 1959), 5 of document, 546 of archival file.

Klimmer also sought to influence the course of Penal Code reform in West Germany, most likely because he hoped that a change in West German policy regarding homosexuality would place pressure upon the GDR to follow suit. In some ways, this task was an easier one. In addition to the existence of the DGfS as an umbrella organization for West German sexologists, the impetus to reform § 175 received support at national conferences of West German jurists and lawyers in 1951 and 1953, respectively.<sup>251</sup> Klimmer implored the organizers of the International Conference of Jurists that met in Brussels in October 1953 and in Vienna in 1954 to do the same.<sup>252</sup>

As with his efforts in East Germany, Klimmer made the dissemination of his own writings the lynchpin of his campaign and cast a wide net in order to reach as many potentially influential supporters of his cause as possible. None other than the West German Minister of Justice Thomas Dehler (1897-1967) had read Klimmer's 1950 *Neue Justiz* article regarding the penalization of homosexuality "with interest" and would take Klimmer's views into account during the course of Penal Code reform deliberations.<sup>253</sup> As a member of the Free Democratic Party (FDP), Dehler was presumably more open to decriminalization than were his more socially conservative Christian Democratic governmental coalition partners. And even though only about a year had transpired since the founding of the FRG in May of 1949 and the prospect of unification did not seem impossible, it is noteworthy that the West German Minister of Justice would have been willing to consult an East German legal periodical not merely to keep tabs on the tenor of

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<sup>251</sup> Schäfer, *Widernatürliche Unzucht*, 82-86. The leadership of Karl Siegfried Bader, Director of the Institute of Criminology at the University of Freiburg, was decisive in fostering these developments.

<sup>252</sup> Grau, "Ein Leben im Kampf," 59.

<sup>253</sup> SchA, Klimmer NL, folder: Auszüge aus Briefen, letter from Thomas Dehler, Bundesminister der Justiz, Bonn, to Rudolf Klimmer, Dresden, June 22, 1950.

discussion in the GDR but indeed to serve as a potential basis for conceptualizing the nature of West German Penal Code reform. Dehler's willingness to consider Klimmer's point of view is particularly striking given that the Federal Supreme Court (*Bundesgerichtshof*) had just confirmed the continued validity of the Nazi versions of § 175 and § 175a and rejected the argument that § 175 contravened the constitutional guarantee of the free development of one's personality.<sup>254</sup>

Despite the societal opprobrium faced by homosexuals at the time, Dr. Günter Less, an Associate Judge (*Oberlandesgerichtsrat*) at the State Supreme Court in Erlangen, believed in 1950 that “resistance to such a repeal [of § 175]—in contrast to § 218 [the law that criminalized abortion]—would be much less pronounced than is commonly assumed.” Since Less was convinced that Germans were ultimately more likely to consider abortion than homosexuality to be intrinsically harmful to society, he considered it “all the more [regrettable] that legislative bodies are not making any attempt to undertake reform [of the law].”<sup>255</sup> Unlike Klimmer, Less explicitly associated the quest to eliminate legal intrusions into private, consensual sexual life with the attempt to allow women to make reproductive decisions unfettered by analogous forms of legal proscription. Klimmer's failure to do likewise is curious since opposition to both § 175 and § 218 had been key features of pre-1933 sex reform. Moreover, legislators in the various regional governments that made up the Soviet Occupation Zone passed a panoply of laws that reflected a willingness to consider loosening legal restrictions on abortion. But since these statutes were primarily intended as a response to the epidemic of rape of

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<sup>254</sup> Schäfer, *Widernatürliche Unzucht*, 116; Herzog, “Sexuality, Memory, Morality,” 250.

<sup>255</sup> SchA, Klimmer NL, folder: Auszüge aus Briefen, letter from Günter Less, Oberlandesgerichtsrat, Erlangen, to Rudolf Klimmer, Dresden, March 6, 1950.

German women by Soviet soldiers, Klimmer presumably did not consider their promulgation as an auspicious precedent for reforming other sex crime laws.<sup>256</sup> While Klimmer was eager to point out the injustice of penalizing male but not female homosexuals, he did not explicitly equate gay men's right to sexual self-determination with women's right to reproductive decision-making. But when it came to the importance of having legal provisions regarding homosexuality reflect the constitutional guarantee of gender equality before the law, Klimmer and Less were in full agreement. Later that same year, Less reported to Klimmer that he and others had submitted a position paper to the West German *Bundestag* arguing for the incommensurability of § 175 with the Constitution's guarantee of the unfettered development of one's personality and condemnation of legal discrimination on the grounds of gender; Less's support of Klimmer's cause thus went beyond epistolary concurrence alone.<sup>257</sup>

As in the GDR, some high-ranking West German officials were far less sympathetic to Klimmer's appeal, whether because they disagreed with his stance or because they felt that there were more pressing matters demanding their attention. In 1952, for instance, Klimmer reached out to Gustav Heinemann, former Federal Minister of Internal Affairs and future Minister of Justice and President of the FRG, but Heinemann professed ignorance about § 175: "[E]ven though I am a lawyer, I have spent the bulk of my vocational life in mining and did not experience any such things in that capacity." Apparently, Heinemann shared the view of many in the SED that a working-

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<sup>256</sup> Atina Grossmann, "Pronatalism, Nationbuilding, and Socialism: Population Policy in the SBZ/DDR, 1945 to 1960," in David E. Barclay and Eric D. Weitz, eds., *Between Reform and Revolution: German Socialism and Communism from 1840 to 1990* (New York: Berghahn, 1998), 443-465, here 453.

<sup>257</sup> SchA, Klimmer NL, folder: Auszüge aus Briefen, letter from Günter Less, Oberlandesgerichtsrat, Erlangen, to Rudolf Klimmer, Dresden, August 3, 1950.

class milieu like the mining industry was devoid of the taint of homosexual conduct.

Heinemann expressed no interest in immersing himself in the topic given that all of his time and efforts were devoted to the Emergency Association for Peace in Europe (*Notgemeinschaft für den Frieden Europas*).<sup>258</sup>

When Klimmer learned that efforts to reform the Penal Code were underway in West Germany in 1953, he wrote to the Federal Constitutional Court in Karlsruhe in the hope of influencing the course of the discussion. He received nothing more than a formal acknowledgment of receipt of his missive.<sup>259</sup> The *Bundestag*'s Criminal Law Commission rebuffed his overtures in 1956 as well.<sup>260</sup> When the Federal Constitutional Court needed an expert witness for a seminal 1957 trial regarding the constitutionality of § 175, it turned to Giese instead. Despite his earlier support for decriminalizing consensual same-sex sexual acts among men, Giese did not use his testimony to try to convince the judges that Paragraph 175 should be abolished or even significantly reformed. Instead, he emphasized that the biological differences between women and men translated into profoundly different sexual tendencies, making it far more likely that male homosexuals would cross the line that separated innocuous “deviance” from dangerous “perversion.”<sup>261</sup> Since he presumed that the maternal instinct was sufficient to

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<sup>258</sup> SchA, Klimmer NL, folder: Briefe prominenter gesellschaftlicher Vertreter über § 175 und Homosexualität, letter from Gustav Heinemann, ehemaliger Bundesminister des Innern der BRD, to Rudolf Klimmer, Dresden, March 12, 1952; Derra, “Sexualforscher in der DDR,” 20. 1952 was in fact an eventful year for Heinemann. After having left the Christian Democratic Union (CDU), he founded his own political party, the *Gesamtdeutsche Volkspartei* (All-German People's Party), with the stated goal of negotiating with the Soviet Union to achieve German reunification. Since the party failed to attract much in the way of electoral support, Heinemann dissolved it in 1957 and joined the SPD. Jörg Treffke, *Gustav Heinemann. Wanderer zwischen den Parteien. Eine politische Biographie* (Paderborn: Schöningh, 2009).

<sup>259</sup> Grau, “Ein Leben im Kampf,” 59.

<sup>260</sup> Moeller, “Private Acts,” 541.

<sup>261</sup> Robert G. Moeller, “The Homosexual Man Is a ‘Man,’ the Homosexual Woman Is a ‘Woman’: Sex, Society, and the Law in Postwar West Germany,” in *West Germany under Construction: Politics, Society, and Culture in the Adenauer Era*, ed. Robert G. Moeller (Ann Arbor: University of Michigan Press, 1997):

prevail over any degree of same-sex sexual temptation for women, Giese felt that it was necessary to preserve criminal penalties for men, who were more likely to be seduced into engaging in homosexual conduct and to self-identify as homosexual thereafter. Giese believed that punishment could “support [a homosexual man] on the path to self-control” even as he also recognized that the all-male environment of prison made one run “the risk of strengthening the preference for the same sex.”<sup>262</sup>

By the late 1960s, however, West German policymakers could not help but notice the impetus towards decriminalization in the GDR. West German jurist Ernst-Walter Hanack mentioned the East German reform to his colleagues at a conference in September 1968 with the unstated implication that the FRG should follow suit. While the repeal of § 175 in the GDR was certainly not the only reason why the West German Penal Code of 1969 no longer contained a statute akin to § 175, it provided a precedent for a paradigm shift in a century’s worth of German jurisprudence regarding nonprocreative sexual acts.<sup>263</sup> Indeed, Josie McLellan maintains that one of the reasons why the East German government assented to the decriminalization of consensual adult homosexual acts was because of its desire to be ““world-leading,”” in this regard as in many others.<sup>264</sup> East German governmental officials, however, were not particularly keen to draw attention to the magnitude of this reform. When Klimmer submitted articles for publication in East German periodicals that were intended to influence the course of

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251-284, here 267; Heineman, *What Difference Does a Husband Make?*, 230-231; Grau, “Im Auftrag der Partei,” 115. For more on Giese’s conceptualization of homosexuality, see Peter von Rönn, “Die Homosexualitätswürfe von Hans Giese und der lange Schatten von Hans Bürger-Prinz,” *Zeitschrift für Sexualforschung* 13, no. 4 (2000), 277-310.

<sup>262</sup> Klimmer, “Diskussion: Schlußwort zu ‘Die strafrechtliche Verantwortung für homosexuelle Handlungen,’” 254.

<sup>263</sup> Moeller, “Private Acts,” 538; Herzog, “Sexuality, Memory, Morality,” 261.

<sup>264</sup> McLellan, *Love in the Time of Communism*, 13.

West German and Austrian Penal Code reform in the late 1960s and early 1970s, Professor Karl Leonhard, co-editor of *Psychiatrie, Neurologie und medizinische Psychologie*, told him that positing the GDR as more advanced than its capitalist neighbors when it came to sexual jurisprudence would *not* enhance East Germany's standing in the international community.<sup>265</sup>

## Conclusion

Klimmer's campaign to eliminate legal and societal discrimination against gay men demonstrates that "[t]here were always groups and individuals in the GDR who were prepared to embrace Rosa Luxemburg's maxim that true freedom meant the freedom to think differently."<sup>266</sup> Klimmer managed to negotiate participation in disparate social worlds. He kept one foot in the SED state-socialist system that frequently sought to marginalize him, and another in a hidden world of men-loving men who deemed Klimmer to be their "den mother" (*Landesmutter*).<sup>267</sup> But it was perhaps precisely because of Klimmer's situatedness in a relatively inconspicuous polyclinic that he could

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<sup>265</sup> SchA, Klimmer NL, folder: Schriftwechsel Klimmer mit DS, Behörden, Vorgesetzten über seine Veröffentlichungen und der Versuch der Anwendung restriktiver Maßnahmen, 1967-1974, letter from Karl Leonhard, Mitherausgeber von *Psychiatrie, Neurologie und medizinische Psychologie* und Direktor der Universitäts-Nervenlinik der Charité, to Rudolf Klimmer, Dresden, December 16, 1969. Klimmer was not surprised or disappointed by this response, since his real aim was to publish his manuscripts in West German and Austrian periodicals. He had submitted them to East German publications as a formality in order to comply with the wishes of a local health ministry official. SchA, Klimmer NL, folder: Schriftwechsel Klimmer mit DS, Behörden, Vorgesetzten über seine Veröffentlichungen und der Versuch der Anwendung restriktiver Maßnahmen, 1967-1974, letter from Rudolf Klimmer, Dresden, to Karl Leonhard, Mitherausgeber von *Psychiatrie, Neurologie und medizinische Psychologie* und Direktor der Universitäts-Nervenlinik der Charité, December 22, 1969.

<sup>266</sup> Mark Fenemore, *Sex, Thugs and Rock 'n Roll: Teenage Rebels in Cold-War East Germany* (New York: Berghahn, 2007), xii.

<sup>267</sup> Grau, "Ein Leben im Kampf," 63. While there were no officially recognized homosexual organizations in East Germany before the 1980s, there were "private circles" of gay men who met in a number of cities, including Magdeburg, Dresden, Leipzig, Halle, and Halberstadt, beginning in the 1950s. Kowalski, *Homosexualität in der DDR*, 26, drawing upon Fred Günther, "Die heimliche Liebe in Mitteldeutschland," *Der Weg zu Freundschaft und Toleranz* 10, no. 2/3 (1960), 42-44; Grau, "Sozialistische Moral und Homosexualität," 121.

risk sending missives marked by a surprising degree of importunity and directness to governmental officials without having been subject to the kind of legal or professional sanctions endured by his compatriots in the FRG and the U.K.<sup>268</sup> In lifting the veil of silence from Nazi persecution against gay men, Klimmer forced the VVN to grapple with the meaning of non-political victimization for its self-ascribed antifascist stance. When confronted with SED jurists who insisted on the congruence of morality and law and the necessity of protecting youth and society at large from supposedly harmful homosexual acts as pillars of socialist jurisprudence, Klimmer reminded them that these ideas were instead hallmarks of the “bourgeois” and National Socialist legal legacies they were seeking to overcome. Paradoxically, moving beyond these bequeathals would entail the perpetuation of the “bourgeois” distinction between the public realm and an inviolable private sphere for consensual sexual activity—at least when it came to homosexual conduct.

By revoking § 175 in 1968, the SED belatedly revived the legacy of progressive sex reform of its KPD predecessor and conceded a place for the respect of (homo)sexual privacy in socialist jurisprudence. Since the reform received little in the way of publicity and was not accompanied by a shift in governmental rhetoric on homosexuality, however, the SED’s ability to lay claim to a sexual conservatism that would appeal to the presumed philistinism of the “working people” remained undiminished. Whether in the repeal of § 175 that dared not speak its name or in the clandestine influence that Klimmer exerted

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<sup>268</sup> SchA, Klimmer NL, folder: Briefwechsel Dr. Klimmer + Originaltext der Grabrede für Dr. Rudolf Klimmer anlässlich der Urnenbeisetzung in Dresden, letter from Otto Andree, Leipzig, to Jim Steakley, March 19, 1980, 1-2 of document.

over the Penal Code reform process, “progressive” sex reform could have a place in the GDR as long as it remained invisible.

#### CHAPTER 4. THE UNINTENDED CONSEQUENCES OF GENDER EQUALITY: PREMARITAL SEXUALITY AND THE AGE OF MARITAL CONSENT IN THE 1950s

“West Germans knew that marital status should divide women, even if it did not always do so. East Germans knew that marital status did not have to divide women, even if it usually did.” (Elizabeth Heineman)<sup>1</sup>

When addressing the unintended consequences of the government’s legal and rhetorical commitment to gender equality (*Gleichberechtigung*) in the GDR, existing scholarship has typically pointed to the failure of the SED to overcome entrenched patterns of gender inequality within and beyond the home.<sup>2</sup> Even though female workforce participation reached historically unparalleled heights in the GDR and the SED continually exhorted workers of both sexes to enhance their vocational qualifications, many women were unable to advance beyond jobs with lower levels of remuneration. Few women reached the upper echelons of the SED’s own party

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<sup>1</sup> Elizabeth Heineman, *What Difference Does a Husband Make? Women and Marital Status in Nazi and Postwar Germany* (Berkeley: University of California Press, 1999), 237.

<sup>2</sup> Important works on this topic include: Ina Merkel, *...und Du, Frau an der Werkbank: Die DDR in den 50er Jahren* (Berlin: Elefant Verlag, 1990); Jutta Gysi and Dagmar Meyer, “Leitbild: berufstätige Mutter—DDR-Frauen in Familie, Partnerschaft und Ehe,” in *Frauen in Deutschland 1945-1992*, eds. Gisela Helwig and Hildegard Maria Nickel (Bonn: Bundeszentrale für politische Bildung, 1993), 139-165; Gunilla-Friederike Budde, ed., *Frauen arbeiten: Weibliche Erwerbstätigkeit in Ost- und Westdeutschland nach 1945* (Göttingen: Vandenhoeck & Ruprecht, 1997); Leonore Ansorg and Renate Hürtgen, “The Myth of Female Emancipation: Contradictions in Women’s Lives,” in *Dictatorship as Experience: Towards a Socio-Cultural History of the GDR*, ed. Konrad H. Jarausch (New York: Berghahn, 1999), 163-176; Dagmar Langenhan and Sabine Roß, “The Socialist Glass Ceiling: Limits to Female Careers,” in *Dictatorship as Experience*, 177-193; Eva Kolinsky, “Gender and the Limits of Equality in East Germany,” in *Reinventing Gender: Women in Eastern Germany since Unification*, eds. Eva Kolinsky and Hildegard Maria Nickel (London: Cass, 2003), 100-127; Donna Harsch, *Revenge of the Domestic: Women, the Family, and Communism in the German Democratic Republic* (Princeton: Princeton University Press, 2007).

apparatus—and this was but one manifestation of the discrepancy between the party’s rhetorical celebration of gender equality and its failure to abide by its own principles in practice. The problem was not confined to the world of work and formal politics: attaining parity in the gendered distribution of childrearing and housework responsibilities in the domestic realm remained an elusive goal as well.

Even though governmental officials frequently proclaimed that gender equality had been a *fait accompli* practically from the founding moments of the GDR, the amount of internal dissent about what such equality would entail was more extensive than scholars have heretofore acknowledged, especially when it came to non-work-related topics. The lack of a clear-cut ideological playbook for gender roles in the socialist family provided discursive space for disparate viewpoints. In its official pronouncements, the SED considered the removal of the legal and societal opprobrium attendant upon unwed motherhood as an important step in the path towards gender equality. One significant legal instantiation of gender inequality had been the divergent age of marital consent for men and women ever since the establishment of civil marriage by Chancellor Otto von Bismarck in 1875. Whereas the Civil Code (*Bürgerliches Gesetzbuch*, or BGB, devised in 1900 and still in effect in postwar West Germany), the 1938 National Socialist marriage law, and the occupying Allies’ February 20, 1946 Control Advisory Law (*Kontrollratsgesetz*) Number 16 had all set the age of marital consent (*Ehemündigkeitsalter*) at sixteen for women and twenty-one for men, § 1 of East Germany’s Marriage Ordinance (*Eheverordnung*, or EheVO), which went into effect on

November 29, 1955, set the age of nubility at eighteen for both men and women.<sup>3</sup> This reform was part of a larger transformation in which women's standing under civil law would no longer be contingent upon their marital status, as had been the case under the BGB of 1900.<sup>4</sup> While many observers have criticized the SED for having failed to abide by its rhetorical commitment to gender equality, the new age of marital equality was an important instance in which the regime backed its promise of equality not merely with words, but with the power of the law.

This reform did not meet with universal approbation, as this chapter will reveal through a detailed analysis of epistolary correspondence between East German citizens and officials at the Ministry of Justice during the 1950s and 1960s.<sup>5</sup> Resistance to the

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<sup>3</sup> The BGB's provisions on marriage (§§ 1303-1322) allowed young women under the age of sixteen to receive a waiver with their fathers' permission, but they did not extend this option to young men who wished to marry before turning twenty-one. The law did, however, allow men to submit a petition to be designated as a legal adult at the age of eighteen instead of twenty-one and thereby circumvent the prohibition on "underage" marriage. See Gabriele Czarnowski, *Das kontrollierte Paar: Ehe- und Sexualpolitik im Nationalsozialismus* (Weinheim: Deutscher Studien Verlag, 1991), 67. § 3 of the *Kontrollratsgesetz* Number 16 continued to allow young women to receive a waiver to marry below the official age of marital consent with the consent of their parents or legal guardians; see BArch Berlin-Lichterfelde, DP1 VA 1335, Band 2, letter from Herbert Wächtler, Ministerium der Justiz (hereafter MdJ), Berlin, HA Gesetzgebung, to Genosse Händler, Ministerium für Volksbildung in Berlin, Abt. Jugendhilfe/Heimerziehung, December 20, 1957, 152 of archival file; BArch Berlin-Lichterfelde, DO1 9743, Aktenvermerk, Sachbearbeiter Göhring, Rat des Kreises Neuhaus am Rennweg, Abteilung Innere Angelegenheiten, Bevölkerungspolitik und Personenstandswesen (hereafter PSW), March 18, 1957, unpaginated; Ute Schneider, *Hausväteridylle oder sozialistische Utopie?: Die Familie im Recht der DDR* (Cologne: Böhlau, 2004), 203. According to Schneider, the GDR's Family Law Code reform commission had advocated raising the age of marital consent to eighteen for women already in 1951. After prompting from Soviet authorities in 1953, the measure appeared in the 1954 draft of a new Family Law Code (*Familiengesetzbuch*, hereafter FGB) and became one of its most talked-about provisions. See Schneider, *Hausväteridylle*, 168, 203-204.

<sup>4</sup> Indeed, "[i]ndependent single women did not have a fixed place in the German social order" under the BGB of 1900. See Catherine L. Dollard, *The Surplus Woman: Unmarried in Imperial Germany, 1871-1918* (New York: Berghahn, 2009), 24.

<sup>5</sup> Article 33 of the GDR's Constitution and § 17 of the Law for the Protection of Mother and Child and the Rights of Women stipulated the legal equality of children born in and out of wedlock. De facto legal inequality stemmed from the fact that a child born out of wedlock had only a biological relationship with her or his father, whereas a child born in wedlock had both legal and societal advantages conferred upon her or him by virtue of being part of a legally recognized family from birth: BArch Berlin-Lichterfelde, DO1 14398, Bericht über die Ergebnisse der Diskussion zum Entwurf des FGB auf der Arbeitstagung im MdJ, October 19, 1954, 24-25 of document.

destigmatization of unwed motherhood was more widespread in the populace than the SED was willing to admit. Savvy petitioners not infrequently recast their opposition to nonmarital parenthood in more “ideologically correct” terms that they thought would find greater resonance among East German officials, who typically upheld the constitutional guarantee of equality for children born in and out of wedlock even when they harbored personal qualms about it. Eliminating the disadvantageous legal status for children born out of wedlock was a goal that the East German government shared with both its Weimar and National Socialist antecedents, although the SED did not make explicit mention of this continuity.<sup>6</sup>

The archival record of correspondence between citizens and governmental officials that forms the source base for this chapter is admittedly more likely to reveal the viewpoints of the aggrieved than those of the contented. That said, it is still striking how the stipulation in § 1 of the GDR’s 1955 Marriage Ordinance that both prospective spouses had to be at least eighteen years of age in order to get married sparked a flurry of correspondence from aggrieved parents and from underage marital aspirants. In raising the age of consent for women embarking upon marital unions, the government intended to prevent hastily contracted marriages that all too often ended in divorce. In the spirit of abiding by the stipulated equality of men and women before the law, officials sought to ensure that young women were able to provide fully informed consent to marital unions rather than having typically older male partners or parents offer such consent on their

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<sup>6</sup> In 1944, Stalin eliminated equality for children born in and out of wedlock; the fact that the GDR did not follow his lead demonstrates that the GDR did not necessarily follow the USSR’s example as far as family law was concerned. See Schneider, *Hausväteridylle*, 32.

behalf. It would no longer be the father's role to "give away" his daughter in marriage.<sup>7</sup> The idea was that marriages to which the female partners offered fully informed consent would prove to be more resilient and equitable.<sup>8</sup>

For many of these young women, however, it seemed as if the state had usurped the role of parents and fiancés in dictating the terms under which prospective brides could contract a marriage. This perception would ostensibly lend credence to Ute Schneider's contention that family law reform led to a "de-differentiation" (*Entdifferenzierung*) of state, family, and society in the GDR. Her own account, however, provides numerous examples in which this was not the case.<sup>9</sup> For instance, Schneider has identified the ongoing salience of the "bourgeois" public-private divide in East Germany as one of the "limits of dictatorship" (*Grenzen der Diktatur*), and that even the new "socialist" family law ultimately served to reinforce this divide. In other words, the legal tools that were supposed to enable further state intervention into familial life also made manifest the limits of the possible scope of such intervention.<sup>10</sup> In light of this aspect of Schneider's argument, it is all the more curious that she does not call more strongly into question her adherence to the idea that state and society collapsed into one another in the East German polity.

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<sup>7</sup> By way of comparison, it took until 1957 for the West German *Bundestag* to end husbands' authority over their wives and grant wives considerable property rights. Even at this point, however, the *Bundestag* reaffirmed the husband's role as the sole legal representative of his family and the supremacy of paternal authority in childrearing decisions. Heineman, *What Difference Does a Husband Make?*, 148.

<sup>8</sup> The number of divorces in the GDR dropped from 49,860 in 1950 to 23,167 in 1958, but the divorce rate remained high when compared with that of comparable countries. Harsch, *Revenge of the Domestic*, 204; Lothar Mertens, *Wider die sozialistische Familiennorm: Ehescheidungen in der DDR 1950-1989* (Opladen: Westdeutscher Verlag, 1998). For more on divorce law in the GDR, see Chapter 5.

<sup>9</sup> Schneider, *Hausväteridylle*, 264, 267. Schneider has adopted the term *Entdifferenzierung* from a monograph that has been very influential for practitioners of East German history: Sigrid Meuschel, *Legitimation und Parteiherrschaft in der DDR: Zum Paradox von Stabilität und Revolution in der DDR, 1945-1989* (Frankfurt am Main: Suhrkamp, 1992).

<sup>10</sup> Schneider, *Hausväteridylle*, 351-352.

The implementation of family law reform instead highlighted key differences of opinion between state and society regarding the tenor of family life under socialism. Many women did not agree with the SED that waiting to get married, especially when a child was on the way, constituted a form of female self-empowerment. Officials had expected some parents and male relatives to cling to old marital norms out of the desire to protect their “traditional” prerogatives, but they did not believe that young women would so frequently consider it in their own interest to do so as well.

Leonore Ansorg and Renate Hürtgen highlight the “myth” of female emancipation in the GDR by criticizing those scholars who blame the “failure” of the state’s emancipatory policies on the backward and patriarchal behavioral patterns on the part of *both* men and women in domestic life. Ansorg and Hürtgen reject this tendency to blame East Germans themselves for being insufficiently enlightened to carry out the government’s goal of achieving gender parity: “It is not the contradiction between legal or political developments and their unrealized potential that led to a lack of emancipation in the GDR, but rather the very contradictory nature of this possibility or claim itself.”<sup>11</sup>

Was the emancipation of East German women doomed from the start? According to Donna Harsch, “[i]nternal documents [from the Occupation Zone period of 1945-1949] confirm that ‘proletarian anti-feminism’ survived the Third Reich: women were assumed to be apolitical at best, retrograde at worst; religious and under clerical sway; and blinkered by short-term, family-bound concerns”—in other words, Harsch makes the argument about the purported backwardness of the East German people that Ansorg and

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<sup>11</sup> Ansorg and Hürtgen, “Myth of Female Emancipation,” 168.

Hürtgen have refuted.<sup>12</sup> From Harsch's interpretive vantage point, improving East German women's socialist consciousness was not just a matter of strengthening their level of engagement with the formal political process. SED officials equated political backwardness with an exclusive focus on familial considerations at the expense of other priorities. Since they considered the family a female domain, they also believed that overcoming women's political backwardness was essential to overcoming the resilience of atavistic moral standards on familial life and sexual mores. In other words, East German "proletarian anti-feminism" assumed that women were guilty until proven innocent when it came to espousing outmoded political and religious ideals about family life. But as Mark Fenemore has noted, figures like relationship advice book author Rudolf Neubert who sought to overcome such obsolete attitudes more often than not found themselves thwarted by the petty-bourgeois mindset of other East German men:

In his autobiography, Neubert makes clear that he faced an uphill struggle in trying to challenge the "old male dominance" of the 1950s and 1960s. He received much criticism from functionaries who (paradoxically) accused him of being a petit bourgeois for wanting to explore issues of "domestic living arrangements, the distribution of burdens in the household or even techniques of loving" that they considered to be "beneath" what a socialist should be striving for.<sup>13</sup>

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<sup>12</sup> Donna Harsch, "Approach/Avoidance: Communists and Women in East Germany, 1945-9," *Social History* 25, no. 2 (May 2000), 156-182, here 157.

<sup>13</sup> Mark Fenemore, *Sex, Thugs and Rock 'n Roll: Teenage Rebels in Cold-War East Germany* (New York: Berghahn, 2007), 26; see also Mary Fulbrook, *The People's State: East German Society from Hitler to Honecker* (New Haven: Yale University Press, 2005), 141. Such attitudes were not unique to socialists in the GDR; as Geoff Eley has noted about the European socialist milieu more generally, "Though the socialist tradition consistently upheld an ideal of women's emancipation, and explicitly linked the franchise to a broader program of economic reform, in a combination of women's productive employment and socialized services, in practice socialists equally consistently assimilated women's interests to the ideology of the male breadwinner and the family wage, within a model of the male headed household and the respectable working-class family. Because socialists participated in this way in gendered languages that remained hegemonic, they were capable of both advocating the advancement of women, while simultaneously enjoining the continuing forms of women's subordination." Geoff Eley, "From Welfare Politics to Welfare States: Women and the Socialist Question," in *Women and Socialism/Socialism and*

The tendency to characterize East German women in particular as petty-bourgeois philistines also stems from the assumption held by Ute Schneider that progress towards gender equality was an intrinsic part of the process of modernization that spanned the Cold War divide. As Schneider has argued, the difference between the GDR and the Soviet Bloc on the one hand and western Europe including the FRG on the other was not so much the trend towards gender equality as it was the pace at which it was implemented and the inexorable linkage between emancipation and female workforce participation in the socialist states.<sup>14</sup> While there certainly were commonalities in changing patterns of gender roles and relations throughout Europe at the time, what Schneider calls the “pressure of modernization” (*Modernisierungsdruck*) does not explain why, or even whether, this “pressure” existed in the first place.

Whether the result of the “pressure of modernization” or not, the SED’s legal codifications regarding gendered expectations of marital life unwittingly provided young women with newfound motivation to turn to the state as an adjudicator between different levels of government and as an arbiter between competing norms regarding marriage. While the number of complaints regarding the new age of marital consent would eventually diminish in number, albeit not nearly as quickly as officials claimed, the provocative nature of the Marriage Ordinance’s § 1 prompted citizens to resort to petitions (*Eingaben*) to articulate their (dis)satisfaction with the new law’s apparent disregard for previously sacrosanct norms regarding gender and sexuality. The popular

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*Women: Europe between the Two World Wars*, eds. Helmut Gruber and Pamela M. Graves (New York: Berghahn, 1998), 516-546, here 520.

<sup>14</sup> Schneider, *Hausväteridylle*, 346-347.

reaction to the change in marriage law would have longer-term consequences than the particular details of the disagreement over the optimal age of nubility; indeed, citizens' letters established the basis for a semi-public forum in which the contours of a multivalent East German "cultural language" of sex could take shape.

Opposition to the new age of marital consent could, but did not necessarily, coexist with an acceptance of governmental paternalism. A linguistic trope that recurred in many missives indicated an apparent willingness on the part of some young women and men to accept the state's self-ascribed parental authority, even if only for instrumental reasons. These young appellants were apt to refer to President Wilhelm Pieck in particular as the "father of the country" (*Landesvater*).<sup>15</sup> On the one hand, this kind of language constituted a holdover of the patriarchal authoritarian state (*Obrigkeitsstaat*) in which Germans had recourse only to the subject position of an obsequious supplicant who implored a potentially benevolent but also potentially arbitrary wielder of absolute power rather than that of an empowered citizen demanding the recognition of rights from a state that abided by the letter and the intent of the law (*Rechtsstaat*). On the other hand, by appealing to Pieck to protect them from injustices meted out by ostensibly less empathetic branches of government, petitioners were implicitly articulating a *right* to marry that only a "father," whether real or symbolic,

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<sup>15</sup> Paul Betts also maintains that *Eingaben* authors often referred to President Pieck as a benevolent patriarch, and I echo his contention that this was not necessarily a sign of obsequious deference to neofeudal and neotraditional forms of authority. Paul Betts, *Within Walls: Private Life in the German Democratic Republic* (New York: Oxford University Press, 2010), 183, 188, 191; Ina Merkel and Felix Mühlberg, "Eingaben und Öffentlichkeit," in *Wir sind doch nicht die Meckerecke der Nation": Briefe an das Fernsehen der DDR*, ed. Ina Merkel (Berlin: Schwarzkopf & Schwarzkopf, 2000), 11-46, here 19-21; Felix Mühlberg, *Bürger, Bitten und Behörden: Geschichte der Eingabe in der DDR* (Berlin: Dietz Verlag, 2004), 76, 79-83, 108, 202-203.

could protect.<sup>16</sup> Some complainants extended the familial metaphor even further by threatening to do something that was bound to hurt their “father’s” pride—namely, abscond to the FRG.

I am thus suggesting a reperiodization of the emergence of the concept of women’s rights, whether articulated implicitly or explicitly, in communication between citizens and the state in the GDR. In her study of petitions submitted by East German women who appealed the denial of their requests for abortion, Donna Harsch observes that “talk about women’s rights was associated with an emerging self-confidence of citizens vis-à-vis the state,” and in her analysis, this self-confidence and rights-based discourse were products of the 1960s, not the 1950s.<sup>17</sup> Yet even when women of the 1950s used the language of what Sheila Fitzpatrick has called “supplicants” in their *Eingaben*, they could still advance the kinds of claims that “citizens” would be inclined to make, namely a right to marital self-determination. This right was not infrequently exercised in a way that reinforced patriarchal or parental prerogative in determining the timing of a marital union. But some women insisted on getting married while underage and pregnant *not* because they felt as if *had* to because of familial or societal expectations, but because they were inclined to do so of their own volition. Thus women’s assertion of their right to an inviolable private sphere was integral not only to their self-perception as *citizens* of the GDR, but also to their emerging self-consciousness as *women*. And it was precisely their yearning for self-determination in the intimate and

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<sup>16</sup> This was not unique to the GDR. Soviet citizens’ petitions during the 1930s, for example, also included frequent references to government officials as “beloved father.” Sheila Fitzpatrick, “Supplicants and Citizens: Public Letter-Writing in Soviet Russia in the 1930s,” *Slavic Review* 55, no. 1 (Spring 1996), 78-105, here 92.

<sup>17</sup> Donna Harsch, “Society, the State, and Abortion in East Germany, 1950-1972,” *American Historical Review* 102, no. 1 (1997), 53-84, here 55-56, 71, 75; Betts, *Within Walls*, 114.

domestic realms that was not all that different from Rudolf Klimmer's aspiration for autonomy in the private realm for gay men. Challenges to the apparent dissolution of the divide between public and private under socialist jurisprudence could thus have a retraditionalizing motivation (in the case of asserting the importance of marital parenthood) or a progressive impetus (in the case of realizing the Weimar-era goal of homosexual emancipation).

Rethinking family law reform as providing a basis for making new kinds of claims upon the state allows one to approach the question of whether or not the GDR could be construed as a *Rechtsstaat* in the domain of gender and family as it was for some aspects of jurisprudence regarding sexual offenses (as I have explored in chapters 2 and 3).<sup>18</sup> While she would likely not characterize the GDR as a *Rechtsstaat* in any regard, Ute Schneider argues that the relationship between the Family Law Code (*Familiengesetzbuch*, or FGB) and the BGB was not exactly what SED rhetoric implied, namely socialist jurisprudence making a clean break with its bourgeois forbear. In some respects, such as doing away with the previously customary alimony obligations, the FGB and Marriage Ordinance did more than the BGB to perpetuate the liberal tradition of law grounded in the recognition and protection of individual interests rather than of familial or collective rights.<sup>19</sup> While Schneider contends that the family and collective ultimately took precedence over the individual in East German family law, this does not mean that individual rights were of no consequence at all. Indeed, my argument about

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<sup>18</sup> The ascription of *Rechtsstaat* status applies to some of the content of family law reform rather than the way in which it was promulgated. By preceding the official issuance of a new Family Law Code of 1965 by ten years, the issuance of the Marriage Ordinance did not hew to the niceties of legislative proceduralism that are also a hallmark of a conventionally defined *Rechtsstaat*.

<sup>19</sup> Schneider, *Hausväteridylle*, 346-347.

the resilience of notions of individual rights in at least some aspects of socialist jurisprudence both reflects and is a consequence of the key importance of the private sphere in the GDR, ideological prognostications about its demise from both sides of the intra-German border notwithstanding. As Paul Betts purports:

For its part, the SED devoted a huge amount of state energy to integrating the private individual into the full machinery of GDR state and society, endeavouring to fully fuse I and We. [...] Yet it is misleading to interpret these well-known developments as merely proof of the absence of privacy in the GDR; for if privacy really did not exist, then the state would not have gone to such extraordinary lengths to investigate it. The deeper question is rather: why did the private sphere matter so much?<sup>20</sup>

The SED's selective recognition of individual rights in family law and perceived need to influence but still preserve the private sphere were thus two sides of the same coin. And the articulation of individual prerogatives could take discursive forms with more communal connotations through the use of terms such as "reputation" (*Leumund*) and "honor" (*Ehre*). It turns out that "traditional" notions such as these were remarkably compatible with more "modern" facets of socialist jurisprudence.<sup>21</sup>

The resilience of such "traditional" views also manifested itself in the SED's failure to articulate a consistently progressive vision for masculinity in the promulgation of "socialist" familial norms.<sup>22</sup> Despite the fact that the new age of marital consent

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<sup>20</sup> Betts, *Within Walls*, 5.

<sup>21</sup> Combining seemingly incompatible legal and popular concepts was nothing new in German legal practice, and reconciling the concept of honor with the rule of law was no exception. Ann Goldberg has contended that in imperial Germany, "a hybrid legal culture [developed] that merged key liberal legal principles—the *Rechtsstaat*, legal equality, civil rights—with a jurisprudence that assumed and protected the social hierarchies and status differences embedded in the concept of honor." Ann Goldberg, *Honor, Politics, and the Law in Imperial Germany, 1871-1914* (New York: Cambridge University Press, 2010), 19.

<sup>22</sup> Hildegard Maria Nickel, "Women and Women's Policies in East and West Germany, 1945-1990," in *Social Transformation and the Family in Post-Communist Germany*, ed. Eva Kolinsky (Basingstoke: Macmillan, 1998), 23-36, here 27; Mike Dennis, "Family Policy and Family Function in the German

would consign to unwed motherhood women who otherwise would have gotten married, “East Germany [...] remained silent on whether fathers were necessary for children’s well-being.”<sup>23</sup> Minister of Justice Hilde Benjamin did bring up the role of men in family law from time to time, but the focus of internal discussions and external communications remained almost exclusively on women, and this has continued to be the case in much of the historiography.<sup>24</sup> Given the emergence of historical scholarship that has identified the recasting of the West German masculine ideal during the 1950s—as a citizen-soldier and breadwinner for his family, but also someone who sought “release, escape, and satisfaction” through consumerism—it is striking that scholars have devoted so little attention to the question of whether an analogous or different transformation of masculinity was occurring concomitantly in the GDR.<sup>25</sup> To the extent that masculinity has been the subject of historical inquiry, it has typically been in studies of youth subcultures. Fenemore, for instance, has observed that “[e]xaggerated notions (and performances of) masculinity were made to serve not just as a means of rebelling against SED rule, but also of upholding and conforming with it,” but he has not explained how and why East Germans would have instrumentalized “exaggerated” masculinity for such disparate purposes.<sup>26</sup>

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Democratic Republic,” in *Social Transformation*, 37-56, here 39; Josie McLellan, *Love in the Time of Communism: Intimacy and Sexuality in the GDR* (New York: Cambridge University Press, 2011), 14-15, 82.

<sup>23</sup> Heineman, *What Difference Does a Husband Make?*, 228.

<sup>24</sup> Schneider, *Hausväteridylle*, 179.

<sup>25</sup> Uta G. Poiger, “A New, ‘Western’ Hero?: Reconstructing German Masculinity in the 1950s,” in *The Miracle Years: A Cultural History of West Germany, 1949-1968*, ed. Hanna Schissler (Princeton: Princeton University Press, 2001), 412-427, here 419, 422; Frank Biess, *Homecomings: Returning POWs and the Legacies of Defeat in Postwar Germany* (Princeton: Princeton University Press, 2006); Robert G. Moeller, “Introduction” to “The ‘Remasculinization’ of Germany in the 1950s” forum, *Signs: Journal of Women in Culture and Society* 24, no. 1 (1998), 101-106.

<sup>26</sup> Fenemore, *Sex, Thugs and Rock ‘n Roll*, xii.

What did *not* change in the partial transfer of “parental” decision-making prerogative from parents to the state was the fact that *women* still had to bear the brunt of the consequences of whether or not to marry when a premarital pregnancy came into being—and they still had to rely upon masculine authority figures to “help” them make the right decision about when and whether to marry. Officials did not devote much thought to the ramifications of lowering the age of marital consent for men from twenty-one to eighteen, despite popular protests that advocated keeping the age for men at twenty-one or even increasing it to twenty-five. And for all of the emphasis placed upon the need for husbands and wives to enter into marriage as fully equal partners, there was little guidance as to how they might *continue* to be fully equal partners once married. In other words, the SED’s desire for men and women to begin a marriage on an equal footing might not have meant as much to young women when it was linked exclusively to the seemingly arbitrary criterion of the age of legal majority. As many petitioners noted, attaining the age of legal majority did not necessarily confer upon an individual the level of maturity required for a successful marital union. It is for these reasons that a husband made more of a difference in the GDR of the 1950s than Elizabeth Heineman has acknowledged.<sup>27</sup>

Elizabeth Heineman’s study of the differing valuation of marital status and maternal employment for women in East and West Germany has been very influential for my own thinking about the ways in which the Marriage Ordinance did or did not alter the

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<sup>27</sup> While the gendered demographic imbalance did not receive the kind of attention that it commanded in the FRG, this did not mean that citizens and governmental officials did not notice it; for every 100 unmarried men aged 35 to 40 in the GDR around 1963, for instance, there were 633 unmarried women of the same age. BArch Berlin-Lichterfelde, DP1 VA 1445, Band 1, “Zu einigen Fragen der Familie in der DDR,” February 4, 1965, 15 of document, 15 of archival file, as cited from “Informationen zu aktuellen Problemen der Planung und Leitung der Volkswirtschaft, zur Rolle demographischer Fakten in der Planung, Information der DFD bei der Staatlichen Plankommission 1962/64.

status of unwed motherhood. I have grappled in particular with the import of one of Heineman's key insights, namely that "[t]he strictly controlled academy and media of East Germany supported tolerance for a wider range of models of motherhood [during the 1950s] than did the uncensored media and scholarly community in the western state."<sup>28</sup> According to her account, while dominant West German journalistic and academic voices contrasted the superiority of the housewife with the "harmful" or "pitiful" employed mother (whether married or unmarried), the East German media landscape "included applause for employed mothers and increased acceptance of single mothers, but [...] also offered recognition to housewives."<sup>29</sup>

It is not clear to me that the relative silence about unwed motherhood in the GDR that Heineman has identified necessarily connotes "increased acceptance of single mothers," especially if one looks beyond the realm of governmental policy.<sup>30</sup> She has tempered her own argument on this count by noting that

[t]he relative quiet on equal rights regardless of legitimacy, for example, not only reflected many party leaders' discomfort with unwed motherhood but also helped minimize backlash among those uncomfortable with a radical shift in sexual mores. Unwed mothers—most of whom would rather not have been in this category anyway—thus avoided resentment as the supposed beneficiaries of the destruction of a widely respected sexual order.<sup>31</sup>

The silence regarding women standing alone—whether pregnant or not—could connote tacit acceptance of their presence in society, but it could also betray an implicit

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<sup>28</sup> Elizabeth D. Heineman, "Single Motherhood and Maternal Employment in Divided Germany: Ideology, Policy, and Social Pressures in the 1950s," *Journal of Women's History* 12, no. 3 (2000), 146-172, here 146; Heineman, *What Difference Does a Husband Make?*, 228.

<sup>29</sup> Heineman, "Single Motherhood and Maternal Employment in Divided Germany," 162.

<sup>30</sup> Heineman, "Single Motherhood and Maternal Employment in Divided Germany," 155; Heineman, *What Difference Does a Husband Make?*, xiv, 9.

<sup>31</sup> Heineman, "Single Motherhood and Maternal Employment in Divided Germany," 159; Heineman, *What Difference Does a Husband Make?*, 9.

recognition on the part of governmental officials that not all East Germans would react favorably to the destigmatization of unwed motherhood.<sup>32</sup>

Heineman could conceivably link increasing acceptance of unmarried mothers in the GDR with newfound approbation for women in the workforce. But she is actually quite skeptical of the East German state's ability in the short term to influence economic decision-making through its *materialist* policies.<sup>33</sup> Indeed, she goes so far as to aver that "ideology alone could not move women to act against what they believed was in their best interests, and [thus] public policies had only a slight effect on economic calculations."<sup>34</sup> Yet she curiously assumes the state's ability to command *discursive* hegemony over women's reproductive and marital decisions after only a very brief period of time. One could say that Heineman does this for good reason since the rate of out-of-wedlock births remained consistently higher in the GDR than in the FRG.<sup>35</sup> But why would a strategy based in part on silence about the role of marital status in childbearing decisions succeed in enforcing ideological conformity while explicit and far-from-silent paeans to employed motherhood allegedly failed to have a similar impact upon economic decision-making? The robust, even if circumscribed, debates spawned by § 1 of the Marriage Ordinance reveal that at least in some respects, East German officials and

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<sup>32</sup> As Heineman recognizes, conservative family policy would have been appealing to East German women as a guarantor of "material comfort" as well as "womanly honor" after the upheaval and mass rape by Soviet soldiers of the occupation period. Heineman, *What Difference Does a Husband Make?*, 105. She also acknowledges that "popular sexual conservatism" in the GDR "deplored [...] the perceived sexual radicalism of Communist ideology." Heineman, *What Difference Does a Husband Make?*, 95.

<sup>33</sup> This skepticism on Heineman's part is not entirely warranted, especially when one considers that the proportion of East German women in the workforce did increase quite substantially during the first decade of the GDR's existence—from 49 percent in 1950 to 70 percent in 1960. Stefan Wolle, *Aufbruch nach Utopia: Alltag und Herrschaft in der DDR 1961-1971* (Berlin: Ch. Links Verlag, 2011), 219.

<sup>34</sup> Heineman, "Single Motherhood and Maternal Employment in Divided Germany," 161-162.

<sup>35</sup> "East German rates of illegitimacy hovered between 13.1 percent and 13.3 percent from 1951 to 1957. Although they subsequently dropped to 9.5 percent in 1964, West German births outside marriage were already nearly this low (9.73 percent) in 1950, and they declined every year until they reached 4.99 percent in 1964"; Heineman, "Single Motherhood and Maternal Employment in Divided Germany," 159-160.

citizens were anything but silent about the topic of unwed motherhood during the early years of the GDR.

After providing an analysis of the legal climate that led to the promulgation of the Marriage Ordinance, this chapter assesses the multifarious reactions and unintended consequences that the new age of marital consent engendered just before and during the years immediately following its implementation. The chapter concludes with an evaluation of internal dissent regarding the advisability of this reform at various levels of government as well as an examination of the impact of popular discontent upon subsequent iterations of East German legal codifications regarding the age of marital consent.

### **The Backdrop for the Issuance of the Marriage Ordinance in 1955**

According to the official explanation, the government promulgated the Marriage Ordinance in response to the Moscow Accords of September 20, 1955, which granted the GDR full sovereignty and concomitantly overturned the laws, directives, and orders that the Allied Control Council (*Kontrollrat*) had decreed during the immediate postwar period.<sup>36</sup> With the invalidation of the *Kontrollratsgesetz* Number 16, the GDR effectively had no statutes governing marital practice, since the National Socialists had overturned the BGB's provisions on marriage in 1938 and East German authorities saw no reason to restore them. Given this legal vacuum, courts based their decisions in the interim on Articles 7 (which guaranteed the legal equality of the sexes) and 30 (which invalidated all provisions of the BGB that disadvantaged wives vis-à-vis their husbands)

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<sup>36</sup> BArch Berlin-Lichterfelde, DO1 14426, MdJ, Berlin, Konzeption für das FGB (ca. 1964), 2 of document; Schneider, *Hausväteridylle*, 112.

of the GDR's Constitution of 1949. They also took into account the September 27, 1950 Law for the Protection of Mother and Child and the Rights of Women, with some additional guidance from Supreme Court (*Oberstes Gericht*) precedents. But the Ministry of Justice admitted that this statutory hodgepodge did not provide "sufficient guidance for the resolution of individual issues" and made the GDR vulnerable to West German accusations that it was effectively a "lawless state" when it came to matters of the family.<sup>37</sup> Indeed, Ministry of Justice official Hans Nathan warned the SED's Central Committee that "[e]very court rules differently on the same questions [in family law], threatening the justice system with 'chaos' and a 'crisis of confidence.'"<sup>38</sup>

To fend off such allegations and to comply with the invalidation of *Kontrollratsgesetz* Number 16 by the Moscow Accords, the Presidium of the Council of Ministers (*Ministerrat*) issued a mandate on October 14, 1955 that set in motion the expedited drafting of the Marriage Ordinance; the goal was to have a new law in place by November 15, 1955.<sup>39</sup> The Council of Ministers envisioned the Marriage Ordinance as only a stopgap measure before the comprehensive reform of family law; the new FGB did

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<sup>37</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 1, draft of a Begründung for the EheVO, undated but apparently part of a November 1, 1955 draft of the ordinance, 1 of document, 34 of archival file. Ute Schneider has attributed the SED's reluctance to proceed with family law reform in the early 1950s to the GDR's as-yet-uncertain relationship with the FRG, intra-party purges, signals from Soviet authorities to East German officials not to accelerate the pace of change, attempts on the part of the SED to assert its predominance within the block party system, and uncertainty regarding the "character" and "content" of socialist jurisprudence among its practitioners; see Schneider, *Hausväteridylle*, 102-103, 113, 349-350. Donna Harsch has argued that the Ministry of Justice was so taken aback by increasingly contentious discussions that "[f]or a decade [sic emphasis], the reform of family law completely disappeared from the SED's agenda, although not from the MdJ's legal practice." Harsch, *Revenge of the Domestic*, 205, 210.

<sup>38</sup> Harsch, *Revenge of the Domestic*, 204, quoting from SAPMO-BArch DY30 IV 2/13/99, Hans Nathan, MfJ an ZK SED, May 9, 1950.

<sup>39</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 1, note from MdJ, HA Gesetzgebung, Berlin to Ministerium des Innern (hereafter MdI), Staatssekretariat für Innere Angelegenheiten, Berlin, Betreff: Verordnung über Eheschließung und Eheauflösung, November 1, 1955, 37 of archival file.

not appear until 1965.<sup>40</sup> Legislation pertaining to marriage was evidently a much higher reform priority for East German legislators than other family-related legal matters.

The new age of nubility made its first appearance in the 1954 draft of the FGB, which became the subject of an extensive orchestrated public discussion.<sup>41</sup> Subjecting the draft to public scrutiny was supposed to be a reflection of the truly democratic nature of socialist jurisprudence. In a moment of candor, however, Ruth Toeplitz, wife of Heinrich Toeplitz (who was president of the Supreme Court) and a member of the governing body of the Democratic Women's League of Germany (*Demokratischer Frauenbund Deutschlands*, or DFD), admitted that the purpose of the public forums was not so much to elicit feedback as it was to explain the law and assist in the realization of its pedagogical goals.<sup>42</sup>

Discussion participants allegedly objected more frequently to lowering the age of marital consent for men than to raising it for women. Indeed, some opined that men

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<sup>40</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 1, MdJ, Berlin, draft of a Begründung for the EheVO, undated but apparently part of a November 1, 1955 draft of the ordinance, 2 of document, 35 of archival file; BArch Berlin-Lichterfelde, DO1 14426, Konzeption für das FGB (circa 1964), 3 of document. According to Ute Schneider, accounts like those of Klaus Schroeder (*Der SED-Staat*) and Hermann Weber (*Geschichte der DDR*) have not posited family law directives issued during the 1950s as precursors to the 1965 FGB, despite copious evidence to the contrary. For Schneider, the lengthy gestation of family law reform was a sign that East German jurists needed time for the “discursive appropriation” of the tenets of socialist civil and family jurisprudence. See Schneider, *Hausväteridylle*, 4, fn 6. Mike Dennis attributes the delayed introduction of the FGB to Hilde Benjamin's admission when the FGB draft was first introduced in 1954 that “the socialization of the economy had not been completed and, in consequences, equality between the sexes could not be realized.” Dennis, “Family Policy and Family Function,” 38.

<sup>41</sup> 313,538 citizens participated in 6,117 forums devoted to discussing the FGB draft that year. BArch Berlin-Lichterfelde, DO1 14398, Bericht über die Ergebnisse der Diskussion zum Entwurf des FGB auf der Arbeitstagung im MdJ, October 19, 1954, 1 of document. Among the objections to § 1 of the Marriage Ordinance once it went into effect was that “the people did not have the opportunity to discuss this law before it went into effect.” Given the scope of the public discussion of the 1954 FGB draft, this accusation was not entirely fair. Nonetheless, even those who had attended the forums would have had reason to protest the lack of truly democratic input since they had not been given any indication that the provisions of the Marriage Ordinance might become law by decree a full ten years before the wholesale reform of the FGB. BArch Berlin-Lichterfelde, DO1 9743, letter from Beauftragte für PSW, Standesamt Suhl, to Rat des Kreises Suhl, Abt. Innere Angelegenheiten, PSW (Betrifft: § 1 der Eheverordnung vom 24. November 1955), March 18, 1957, unpaginated.

<sup>42</sup> Schneider, *Hausväteridylle*, 272.

should only be allowed to marry at the age of twenty-five. The prevalence of this recommendation contravened the official rhetoric of the Ministry of Justice according to which “socialist” views on the importance of gender equality in marriage had already achieved full popular acceptance:

People have correctly recognized that an overly hasty decision to get married results in more unhappiness than giving birth out of wedlock, which was no longer considered a failing. This is a sign of how extensively people’s consciousness has changed. It is, however, unclear what views led people to call for an increase in the minimum age [for marital consent] for men. The reasons given for doing so included the later onset of maturity for men and the need for a difference in age between spouses. What was not widely known was that the minimum age of marriage had been legally established as eighteen since 1950. Many people also failed to understand that having the same age of marital consent for men and women was a necessary consequence of the equal status of men and women before the law and a reflection of the status of our youth in economic and political life. Objections to this provision stem from a tendency to underestimate our youth, who have demonstrated their maturity with exemplary economic achievements, and from bourgeois attitudes that expected the man to dominate the woman in marriage.<sup>43</sup>

This Ministry of Justice official thus postulated that citizens’ objections stemmed from misinformation or misunderstanding rather than a rejection of the principle behind equalizing the age of marital consent for men and women. The official elided the fact, however, that women under the age of eighteen had gotten married in East Germany until the Marriage Ordinance went into effect at the end of 1955. As late as 1954, 3,327 seventeen-year-old East German women and 874 women under the age of seventeen married their fiancés.<sup>44</sup> The official could not avoid admitting that East Germans’

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<sup>43</sup> BArch Berlin-Lichterfelde, DO1 14398, Bericht über die Ergebnisse der Diskussion zum Entwurf des FGB auf der Arbeitstagung im MdJ, October 19, 1954, 6 of document; Schneider, *Hausväteridylle*, 203.

<sup>44</sup> BArch Berlin-Lichterfelde, DP1 SE 2227, Band 4, Beschwerde-Referent Kutschke, Ergebnis der Gesuche auf Ausnahmegenehmigung von der Regelung des § 1 Eheverordnung, MdJ, Berlin, internal memo to HA I, December 3, 1956, 3 of document, 128 of archival file; BArch Berlin-Lichterfelde, DP1 SE

emphasis on the “need for a difference in age between spouses” constituted a holdover of the bourgeois assumption that marriage was a vehicle for men to enhance their economic and social status and acquire heirs for their property. According to this view, men had to complete their education or vocational training before getting married and thus were typically older than their wives.

Opposition to the new age of marital consent for women was more extensive than the chronicler of the 1954 FGB draft discussions was willing to acknowledge. During a meeting in the *Bezirk* of Dresden, she or he claimed that “[t]here was unanimous endorsement of the idea that marriages should, as a rule, not be contracted until both members of a couple are eighteen.” But discussion participants also felt that adhering to this age limit too strictly “does not sufficiently take into account the demands of practical life,” as evidenced by situations encountered in practice and the example of “other progressive countries, especially that of the Soviet Union.” It was for this reason that Neubert, head of the Dresden Regional Administration of the Ministry of Internal Affairs, suggested that district councils should have the option of allowing women as young as sixteen to get married “in truly justified exceptional cases” before the age of marital consent had even been altered.<sup>45</sup>

Hilde Benjamin admitted that

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2226, Band 3, MdJ, Berlin, HA Gesetzgebung, Betreff: Diskussion im Kollegium über die Analyse der Verfahren in Ehesachen, January 15, 1957, 5 of document, 272 of archival file; BArch Berlin-Lichterfelde, DP1 SE 2226, Band 3, MdJ, HA Gesetzgebung, Berlin, Analyse über das Verfahren in Ehesachen im II. Halbjahr 1956, Auswirkung der Neufestsetzung der Ehemündigkeit (§ 1), December 18, 1956, 3 of document, 163 of archival file.

<sup>45</sup> BArch Berlin-Lichterfelde, DO1 14398, letter from Neubert, Leiter der Bezirksverwaltung Dresden-Staatssekretariat für Innere Angelegenheiten, MdI, Abt. Bevölkerungspolitik/PSW, to MdJ, Berlin, October 20, 1954, 1 of document.

[o]f course it took some time for the populace to become aware of the new minimum age for marriage that deviates from the BGB's stipulations. But the pronounced decline in the number of petitions received would seem to indicate that knowledge of the new rule had spread to a sufficient extent.<sup>46</sup>

Even though she underestimated the extent of opposition to the new law, Benjamin recognized that the Ministry of Justice could not simply assume the existence of widespread support for the new age of marital consent. It was for this reason that in the spring of 1956, Benjamin

hosted a forum for exchanging “girl talk” about sex, the latest fashions and shopping. [...] In answer to direct questions about age of marriage, abortion and divorce, she declared that having a child out of wedlock was “no longer a disgrace.” Therefore, it was better for a teenage mother to wait until she was eighteen and to bring up the child on her own rather than being forced into a hasty marriage that she might later regret.<sup>47</sup>

Benjamin's relatively nonchalant attitude towards premarital motherhood contrasted with the tenor of many relationship advice manuals available to East Germans at the time.

Like many of his peers, sexual advice manual author Klaus Trummer insisted that his ambivalence about premarital sexuality did *not* stem from a recrudescence of petty-bourgeois (*spießbürgerliche*) reservations or prohibitions disguised in socialist garb. He also rejected the notion that a woman had to be “‘innocent’ [‘*unschuldig*’]” upon becoming married as an unwanted relic of the bourgeois past.<sup>48</sup> Still, there was no room for adolescent sexual experimentation in Trummer's vision, since the ability to pursue

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<sup>46</sup> BArch Berlin-Lichterfelde, DO1 9742, letter from Hilde Benjamin, Minister der Justiz, to Karl Maron, Minister des Innern, February 13, 1957, Betr.: § 1 der Eheverordnung, 3 of document.

<sup>47</sup> Mark Fenimore, “The Growing Pains of Sex Education in the German Democratic Republic (GDR), 1945-1969,” in *Shaping Sexual Knowledge: A Cultural History of Sex Education in Twentieth Century Europe*, eds. Roger Davidson and Lutz Sauerteig (London and New York: Routledge, 2009), 71-90, here 77-78.

<sup>48</sup> Klaus Trummer, ed., *Unter vier Augen gesagt .... Fragen und Antworten über Freundschaft und Liebe*, 3rd ed. (Berlin: Verlag Neues Leben, 1968), 189, 223.

“true love” in a responsible fashion only arose with the onset of legal adulthood, which was why the age of marital consent accorded with the age of majority—eighteen.<sup>49</sup>

Young East Germans who had been raised in the spirit of preparation for “true love” would not, however, need moral or legal sanctions to force them to abide by its tenets. They recognized that sexuality was not an animalistic or merely procreative drive, but instead a facet of human existence that could best provide pleasure and fulfillment when it was under control.<sup>50</sup> To prove the leftist origins of his sexual conservatism, Trummer alleged that

[t]hose who believe that satisfying the [sexual] drive every day is as necessary as eating and drinking are quite mistaken. Clara Zetkin described in her book *My Recollections of Lenin* how [Lenin] had grappled with the sexual problems of youth and consequently castigated the “glass-of-water theory” as un-Marxist and anti-social in the follow terms: “To be sure! Thirst must be satisfied. But would a normal person under normal circumstances wallow in a pile of excrement on the street and drink from a puddle? Or even just [drink] from a glass whose rim has become greasy from contact with many lips?”<sup>51</sup>

### ***Eingaben as a Catalyst for the Moral Reevaluation of Premarital Cohabitation***

With experts like Trummer casting marriage as the ineluctable gateway to sexual activity, it is not surprising that many youth who had not yet attained the age of legal majority would seek permission to marry despite the Marriage Ordinance’s stipulation that the government would not grant any exceptions to the age of nubility. But the

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<sup>49</sup> Trummer, *Unter vier Augen gesagt*, 190; DP1 VA 2376, Thesen und Vorschläge für den strafrechtlichen Schutz von “Jugend und Familie,” Gesetzgebungskommission “Jugend und Familie,” Professor Lekschas and Professor Grathenauer, Halle, February 4, 1959, 10 of document, 480 of archival file. Unlike Trummer, who did not approve of sexual encounters before the age of eighteen, fellow sex counselor Lothar Obgartel conceded that 17-year-olds might also be ready—albeit only in “exceptional situations [*Ausnahmefall*]”—for carnal experiences. See Trummer, *Unter vier Augen gesagt*, 206.

<sup>50</sup> Trummer, *Unter vier Augen gesagt*, 190.

<sup>51</sup> Trummer, *Unter vier Augen gesagt*, 190-191.

Ministry of Justice sowed the seeds for the perception that officials might be flexible in implementing the new regulation by exempting couples including an underage partner from the provisions of the Marriage Ordinance if they had registered their intent to marry before the ordinance took effect on November 29<sup>th</sup> and if they married by the end of 1955.<sup>52</sup> Even when faced with numerous appeals to grant exceptions after this grace period had ended, however, officials proved unwilling to respond to public pressure to bend or change the law.<sup>53</sup> From January 1, 1956 through November 30, 1956, the Ministry of Justice received fifty-six petitions requesting exceptions to the age of marital consent, while President Wilhelm Pieck's Chancellery received as many as 800 such letters during the same timeframe.<sup>54</sup>

In thirty-eight of the fifty-six letters that the Ministry of Justice received, petitioners explicitly mentioned pregnancy as the reason for the request, and in three additional cases, the young bride-to-be was pregnant for the second time. In the remaining fifteen cases, the reasons for the request were “unclear.” Five of the requests involved 16-year-old women, while the rest involved 17-year-old women. Among the

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<sup>52</sup> BArch Berlin-Lichterfelde, DO1 9730, Internal Ministry of Internal Affairs memo from Hegen, Staatssekretär, to Karl Maron, Minister des Innern, November 30, 1955.

<sup>53</sup> In retrospect, East German family law expert Anita Grandke considers this inflexibility to have been misguided, especially in cases involving premarital pregnancy during the 1950s. Anita Grandke, “Familienrecht,” in *Die Rechtsordnung der DDR: Anspruch und Wirklichkeit*, ed. Uwe-Jens Heuer (Baden-Baden: Nomos Verlagsgesellschaft, 1995), 173-209, here 182.

<sup>54</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 3, MdJ, HA Gesetzgebung, Berlin, Betreff: Diskussion im Kollegium über die Analyse der Verfahren in Ehesachen, January 15, 1957, 5 of document, 272 of archival file; BArch Berlin-Lichterfelde, DP1 SE 2227, Band 4, Beschwerde-Referent Kutschke, Ergebnis der Gesuche auf Ausnahmegenehmigung von der Regelung des § 1 Eheverordnung, MdJ, Berlin, internal memo to HA I, December 3, 1956, 1 of document, 126 of archival file; BArch Berlin-Lichterfelde, DO1 9742, letter from *Staatssekretär* Hegen, MdI, to Karl Maron, Minister des Innern, January 24, 1957, 1 of document; Schneider, *Hausväteridylle*, 204. Given that the *Staatsrat* and President Pieck received 102,331 *Eingaben* on all subjects in 1956, this number was small but not inconsequential; see Merkel and Mühlberg, “Eingaben und Öffentlichkeit,” 14, drawing upon Felix Mühlberg, “Informelle Konfliktbewältigung: Zur Geschichte der Eingabe der DDR” (PhD diss., Technische Universität Chemnitz, 1999).

rationales provided in these *Eingaben* besides impending childbirth were the need for spousal health insurance, “the salvation of reputation and personal honor” (*die Rettung des volksüblichen Leumundes und der persönlichen Ehre*), and a desire for more desirable living accommodations that would become available only upon marriage.<sup>55</sup>

Local officials like Vogel of the Leipzig Regional Council (*Bezirksrat*) tended to echo the central government’s refrain that the number of complaints was declining precipitously. Vogel saw the declining number of petitions as evidence of the success of educational efforts undertaken in tenants’ meetings, DFD meetings, and courts.<sup>56</sup> Rather than assuming that this downward trend was the result of the rapid internalization of socialist norms, President Pieck’s Chancellery provided a far more pragmatic explanation: news was apparently spreading to lower-level functionaries and would-be petitioners that officials in Berlin were unwilling to grant exceptions.<sup>57</sup>

But citizens’ awareness of the law and the rationale behind it could instead strengthen their will to defy it. Indeed, some petitioners openly espoused their belief in the superiority of the “capitalist” statutes that the Marriage Ordinance replaced. Rudi S., who was on the cusp of his twenty-third birthday, wished to marry his pregnant fiancée, Edda K., who was five months away from her eighteenth birthday; he was “a man of honor” and wanted to wed “out of respect for my bride.” Rudi S. recognized that the *Kontrollratsgesetz* Number 16, which had allowed women as young as sixteen to get

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<sup>55</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 3, MdJ, HA Gesetzgebung, Berlin, Analyse über das Verfahren in Ehesachen im II. Halbjahr 1956, Auswirkung der Neufestsetzung der Ehemündigkeit (§ 1), December 18, 1956, 1-2 of document, 162 front side-162 back side of archival file.

<sup>56</sup> BArch Berlin-Lichterfelde, DO1 9742, note from Vogel, Rat des Bezirkes Leipzig, Abt. Innere Angelegenheiten, PSW, to MdI, HA Innere Angelegenheiten, Hauptreferat PSW, March 19, 1957.

<sup>57</sup> BArch Berlin-Lichterfelde, DO1 9742, report by Frau Thaler, Leiter der Rechtsabteilung der Präsidialkanzlei des Präsidenten der DDR for Bergmann, MdI, Berlin, undated but presumably from shortly after May 10, 1957.

married with parental permission, was based on the precedent set by the “capitalist” BGB. He nonetheless believed that it should be possible to grant an exception to § 1 of the Marriage Ordinance for an almost-adult woman in an advanced stage of pregnancy like his fiancée.<sup>58</sup> In other words, even though Rudi S. acknowledged that underage marriage was a legacy of the capitalist past, he felt that at least in his and Edda K.’s case, this legacy of capitalist jurisprudence was more sensible and humane than its socialist successor. Thus, even someone like Rudi S. who was aware of the importance the SED attributed to the “socialist” character of the Marriage Ordinance did not feel that it was out of place to remind the government of elements of the “capitalist” jurisprudential legacy that it should not have discarded entirely.

The SED’s rigidity on this point was not even in line with the practice of other state-socialist countries, let alone capitalist ones. The GDR was taking a harder stance on this issue than was the USSR, which set the age of marital consent at sixteen for young women and at eighteen for young men and allowed for exceptions to be granted for women as young as fifteen.<sup>59</sup> East German family law was thus not a carbon copy of its Soviet counterpart.<sup>60</sup> The distinctive features of East German jurisprudence did not prevent Germans on both sides of the border from purporting that Soviet authorities had foisted their legal apparatus *in toto* upon hapless East Germans, however.<sup>61</sup> To counter accusations that East German family law was not sufficiently “German,” the SED averred

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<sup>58</sup> BArch Berlin-Lichterfelde, DO1 9743, letter from Rudi S. of Leipzig to President Wilhelm Pieck, August 13, 1956.

<sup>59</sup> Lauren Kaminsky, “Utopian Visions of Family Life in the Stalin-Era Soviet Union,” *Central European History* 44, no. 1 (March 2011), 63-91, here 68, drawing upon Elizabeth Wood, *The Baba and the Comrade: Gender and Politics in Revolutionary Russia* (Bloomington: Indiana University Press, 1997), 51; Schneider, *Hausväteridylle*, 204, fn 71.

<sup>60</sup> Schneider, *Hausväteridylle*, 264-265.

<sup>61</sup> Heineman, *What Difference Does a Husband Make?*, 110.

that its proposed reforms were long overdue for both Germanies and that the FRG would do well to follow its lead in codifying gender equality.<sup>62</sup> By virtue of its divergence from the family law provisions of the BGB still valid in the FRG, the Marriage Ordinance constituted a bold attempt to assert the validity of the GDR as *the* legitimate German state.

It was perhaps precisely because of this boldness that even some lower-level state functionaries considered the Marriage Ordinance to be a foreign imposition that was incommensurate with German norms. An official from the civil registry office (*Standesamt*) in Suhl complained, “This was not a German law. We Germans are western Europeans and a woman’s readiness for marriage (*Ehereife*) should be considered from this standpoint.”<sup>63</sup> Even though East Germany was part of the Soviet Bloc, this local functionary did not hesitate in proclaiming the GDR’s cultural allegiance to capitalist countries in western Europe. From this perspective, the Marriage Ordinance betrayed blind obeisance to the bidding of Soviet overlords—even though it differed from Soviet legal precedents in key respects—and thus did not fulfill its stated goal of reflecting the views of the populace. West German family law, by contrast, was authentically German because it emanated from the BGB rather than the dictates of an occupying power.

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<sup>62</sup> Schneider, *Hausväteridylle*, 278.

<sup>63</sup> BArch Berlin-Lichterfelde, DO1 9743, letter from Beauftragte für PSW, Standesamt Suhl, to Rat des Kreises Suhl, Abt. Innere Angelegenheiten, PSW (Betrifft: § 1 der Eheverordnung vom 24. November 1955), March 18, 1957, unpaginated. According to Elizabeth Heineman, the Suhl official’s implicit objection to the Marriage Ordinance as a culturally alien Soviet imposition was more a matter of perception than reality: “The occupation-era discussions of the relationship between propertied interests, male privilege, and marriage law suggest that the path taken later by East Germany was not simply an unpopular ‘revolution from above’ or ‘foreign import.’” Heineman, *What Difference Does a Husband Make?*, 129.

Strategically minded East Germans who did not explicitly reject the Marriage Ordinance as intrinsically illegitimate made use of their knowledge of the rationale behind the law to craft “ideologically correct” arguments to justify their opposition to it. Petitioners who realized that bearing a child out of wedlock was not supposed to be a source of shame in the GDR tended to deemphasize premarital pregnancy as their primary reason for seeking an exception to the age of nubility. For instance, Helga W., a seventeen-year-old writing in June 1957 who had been engaged since March of the same year, described her “biggest wish” as being able to marry her 31-year-old fiancé before she gave birth to their child in November, even though she was fully aware that “a single mother in the GDR has the same rights as other mothers do.”<sup>64</sup> In other words, she was trying to preempt the anticipated response that giving birth out of wedlock would not impinge upon her child’s legal or social status. Her resolve to marry remained firm *despite* the stipulation of legal equality for children born in and out of wedlock, and she hoped that President Wilhelm Pieck would support her in this decision.

The new age of marital consent thus prompted not only young women, but young men as well, to articulate their desire for marriage on their own terms rather than those of the Marriage Ordinance. But only in relatively rare instances was the typical pattern of an adult prospective groom and underage prospective bride broken. Instead of arguing that the prospective husband was “mature enough” to compensate for any deficit of maturity on the part of a prospective wife, Irene H. and Klaus W., both of whom were seventeen years old, sought to convince President Pieck that they were both “physically

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<sup>64</sup> BArch Berlin-Lichterfelde, DO1 9743, letter from Helga W., Plaue, to Wilhelm Pieck, Präsident der DDR, June 4, 1957.

and mentally very advanced for [their] age.”<sup>65</sup> Whether unwittingly or not, this couple seems to have internalized the government’s message that marriage was an egalitarian partnership in which the maturity and consent of both partners mattered equally.

Heinz R., a legal adult who asked for an exception to the age of marital consent so that he could marry his underage girlfriend in 1960, was insistent that his motivation in doing so did not stem from an atavistic conception of marriage. Instead, he argued, “I am not concerned with traditional customs here, but rather with the freedom to establish my familial life when and how I would like.”<sup>66</sup> Heinz R. felt that the Ministry of Justice would be sympathetic towards his desire for familial self-determination. He had, after all, received an ambiguously worded missive in October 1960 from Hugot, a Ministry of Justice spokesperson, who had written that “we have complete understanding for the fact that you are happy about the prospect of living together and you are not hindered in doing so”—verbiage that Heinz R. construed as official approval of premarital cohabitation.<sup>67</sup>

But just a few months later, Gensch, another Ministry of Justice spokesperson, strenuously objected to Heinz R.’s intimation that anyone at the Ministry would have been inclined to condone premarital cohabitation. Gensch insisted that the Ministry of Justice’s approval of cohabitation, like that of the housing agency, extended only to married couples, since “our state does not agree with or grant official recognition to the loose bond between man and woman that is often called a common-law marriage

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<sup>65</sup> BArch Berlin-Lichterfelde, DO1 9742, letter from Irene H. and Klaus W., Derenburg, to Wilhelm Pieck, Präsident der DDR, April 3, 1957, unpaginated.

<sup>66</sup> BArch Berlin-Lichterfelde, DP1 SE 1191, letter from Heinz R., Radebeul, to Hilde Benjamin, Minister der Justiz, September 30, 1960, 2<sup>nd</sup> unnumbered page of document.

<sup>67</sup> BArch Berlin-Lichterfelde, DP1 SE 1191, letter from Heinz R., Radebeul, VEG Weinbau, z. Zt. Bernburg/Strenzfeld, to MdJ, Abteilung PSW, Berlin (Heinz R. was a bit confused, since the *Personenstandswesen* department was at the Ministry of Internal Affairs, not the Ministry of Justice), February 9, 1961, unpaginated; BArch Berlin-Lichterfelde, DP1 SE 1191, letter from Hugot, persönlicher Referent des Ministers, MdJ, Berlin, to Heinz R., Radebeul, October 13, 1960, 2 of document.

(*Kameradschaftsehe*).”<sup>68</sup> Heinz R. was thus doubly frustrated: he originally agreed to wait to get married until his girlfriend turned eighteen because he was led to believe that the government would at least provide them with an apartment in the meantime. He then learned, however, that the government was *not* willing to provide them with an apartment that he knew to be available precisely *because* they were not married—even though it was only because of the government’s obstructionism that they had not been able to celebrate their nuptials in the first place.<sup>69</sup>

Despite Gensch’s protestations to the contrary, the Ministry of Justice in Berlin did not monolithically oppose premarital cohabitation—at least for those whom it deemed indispensable to the strengthening of socialism. Such was the case with Hans-Dietrich S. Even though the director of the Priborn Machine and Tractor Station

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<sup>68</sup> BArch Berlin-Lichterfelde, DP1 SE 1191, letter from Gensch, persönlicher Referent des Ministers, MdJ, Berlin, to Heinz R., Radebeul, February 14, 1961, 1 of document. Gensch implicitly admitted that Hugot’s language had been ambiguous when he opined that it would probably not be a good idea to forward Hugot’s October 1960 letter to the housing agency. Gensch provided cover for his colleague Hugot, however, when he noted that forwarding the letter would not make any difference to Heinz R.’s case since the Ministry of Justice was not in a position to influence the workings of the housing agency. See letter from Gensch to Heinz R., February 14, 1961, 2 of document. Young married couples and families with many children received priority when it came to allocating housing; see Johannes Huinink and Michael Wagner, “Partnerschaft, Ehe und Familie in der DDR,” in *Kollektiv und Eigensinn: Lebensverläufe in der DDR und danach*, eds. Johannes Huinink, Karl Ulrich Mayer et al. (Berlin: Akademie Verlag, 1995), 145-188, here 150; McLellan, *Love in the Time of Communism*, 41-43. The impact of this policy was quite dramatic. From 1952 to 1962, the average age of marriage for single (i.e., not divorced or widowed) men dropped from 25.6 to 23.8, and for previously unmarried women, the average age dropped from 23.8 to 22.5 during the same time period, in no small part due to the linkage of matrimony with access to housing. BArch Berlin-Lichterfelde, DP1 VA 1445, Band 1, “Zu einigen Fragen der Familie in der DDR,” February 4, 1965, 3 of document, 3 of archival file. But early marriage was also common—albeit less so—in the FRG; in 1957, every fifth West German bride was under the age of twenty-one. Christian de Nuys-Henkelmann, “‘Wenn die rote Sonne abends im Meer versinkt...’: Die Sexualmoral der fünfziger Jahre,” in *Sexualmoral und Zeitgeist im 19. und 20. Jahrhundert*, eds. Anja Bagel-Bohlan and Michael Salewski (Opladen: Leske + Budrich, 1990), 107-145, here 119. As late as 1965, the Ministry of Justice felt obliged to deny that the desire to improve one’s chances of receiving a housing allocation was a significant motivation for young East Germans to marry: “personals ads for those seeking marital partners [that allude to getting on the list of apartment seekers] in the newspapers should not be taken as mirrors of widespread views.” BArch Berlin-Lichterfelde, DP1 VA 1445, Band 1, “Zu einigen Fragen der Familie in der DDR,” February 4, 1965, 3 of document, 3 of archival file.

<sup>69</sup> BArch Berlin-Lichterfelde, DP1 SE 1191, letter from Heinz R., Radebeul, VEG Weinbau, z. Zt. Bernburg/Strenzfeld, to MdJ, Abt. PSW, Berlin, February 9, 1961, unpaginated.

(*Maschinen-Traktoren-Station*, or MTS) considered Hans-Dietrich S. to be an exemplary employee, he was not willing to let Hans-Dietrich share an apartment with his underage fiancée on MTS grounds. The Ministry of Justice intervened to override this decision because the fiancée was only six months away from turning eighteen. This rationale is all the more surprising given how frequently the Ministry denied permission to marry to young women who claimed that waiting until their actual eighteenth birthday should be viewed as little more than a formality since they were on the cusp of attaining the age of majority. Given the couple's plans to marry on the prospective bride's eighteenth birthday, the Ministry considered Hans-Dietrich S.'s decision to live with her at the MTS prior to their nuptials as evidence of his "positive moral outlook," even though the Ministry rejected similar requests from other couples who professed a similarly strong intention to get married as soon as it was legally acceptable to do so.<sup>70</sup> Thus, in contrast to Heinz R.'s case, Hans-Dietrich S. received official approval of his request for premarital cohabitation as compensation for not being allowed to wed until his fiancée turned eighteen.

For the sake of rewarding dedicated workers, officials in Berlin sometimes exhorted lower-level governmental officials to facilitate premarital cohabitation in defiance of legal provisions and societal norms. The oft-invoked refrain in the historiography about the primacy of vocational identity and status in the GDR is therefore not lacking an empirical basis. As Jennifer Evans has argued about the policing of sex crimes in the Wismut uranium mines during the 1950s:

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<sup>70</sup> BArch Berlin-Lichterfelde, DP1 VA 1755, memo from MdJ, HA Gesetzgebung, Berlin to Herbert Wächtler, MdJ, Berlin and Helmut Ostmann, MdJ, Berlin, September 15, 1956, 55 of archival file.

For a régime saddled with production quotas, economic goals could complicate attempts to inculcate moral lessons in the sexual sphere, especially in cases involving same-sex infractions. In other words, the materiality of hyper-production impinged upon the discourse of respectability, providing circumscribed but illustrative opportunities for men to evade or at least limit the severity of legal intervention.<sup>71</sup>

Dedication to the socialist project in the workplace in some instances justified deviations from socialist morality in the domestic realm. Even if officials were willing to grant such exceptions only on a very limited basis, they did help set the stage for the emergence of a “cultural language of sex” that recognized premarital cohabitation not as a threat to socialist morality, but instead as an underpinning for stronger socialist marriages that reflected a “positive moral outlook” on the part of men and women alike.

### **Expecting Better of Socialism**

Most young couples in love, however, were not lucky enough to be able to rely upon their status as indispensable cogs in the East German economic apparatus to stake their claim to preferential treatment under family law. This did not stop many of them, however, from espousing a sense of entitlement based upon the state’s rhetorical commitment to workers and young people. It must have been surprising and frustrating to the SED how much of the opposition to the statute came from precisely the young “workers and peasants”—even those who were among the most politically committed—who were supposed to serve as the bedrock of the East German state.<sup>72</sup>

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<sup>71</sup> Jennifer V. Evans, “The Moral State: Men, Mining, and Masculinity in the Early GDR,” *German History* 23, no. 3 (2005), Special Issue: Sexuality in Modern German History, 355-370, here 367.

<sup>72</sup> Historian Richard Bessel has argued that the SED could never bring itself to forgive the East German working class for not having been the ideological vanguard it was supposed to be, whether in its complicity with National Socialist rule or its lackluster support of the project of building socialism. See Richard

Both 21-year-old SED member Werner V. and 16-year-old Helga P., who had already given birth to their first child and who was expecting a second child, appealed to the Arnstadt District Council for permission to wed so as to ensure Helga P.'s and their children's financial well-being should anything happen to Werner V. during his military service. Their tactic of asking why the state could not bend the law just this once for them reflected an ethos that pervaded many appeals relating to § 1 of the Marriage Ordinance. But they simultaneously tried to make the case that their concern extended beyond their own immediate well-being to that of young people in the GDR in general:

In school we learned that laws are not dogmas but instead guidelines for behavior. I think that anything that helps people and workers should be done and everything that hurts the working class should be rejected. In this case, [granting an exception to the law] would help people—and young citizens in particular.<sup>73</sup>

In other words, Werner V. believed that the state was obliged to grant him and Helga permission to marry if it was to live up to its frequently touted promises to help the working class and youth. He did not go so far, however, as to question why a socialist state would have codified in law what he considered to be such ill-suited “guidelines for behavior” in the first place if it really had its citizens’ best interests at heart.

It fell to an official at the Erfurt Regional Council (*Rat des Bezirkes*) to inform Werner V. that if § 1 of the Marriage Ordinance did not apply to everyone in the same way, it would constitute a “violation of democratic jurisprudence (*eine Verletzung der*

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Bessel, “Hatred after War: Emotion and the Postwar History of East Germany,” *History & Memory* 17, nos. 1-2 (Fall 2005), 195-216, here 207-208.

<sup>73</sup> BArch Berlin-Lichterfelde, DO1 9743, letter from Werner V., Krugau, to Beck, Rat des Kreises Arnstadt, February 21, 1956.

*demokratischen Gesetzlichkeit*).<sup>74</sup> According to a frequently rehearsed historiographical and contemporaneous West German critique, the GDR did not deserve the title of a law-bound state (*Rechtsstaat*) since it often implemented its own statutes arbitrarily or circumvented them entirely for the sake of political expediency. In the case of the strict enforcement of the age of marital consent, many East Germans wished that local, regional, and national authorities would actually behave less like a *Rechtsstaat* and more like a benevolent overseer that was amenable to the entreaties of its charges and capable of recognizing when socialist jurisprudence did *not* constitute a faithful reflection of the views, moral and otherwise, of the populace.

Many petitioners sought to reframe the whole issue in pragmatic rather than moral terms. In 1963, Elfriede K. and Martin K. sought permission for their underage pregnant daughter, Gisela, to wed, but they highlighted the advantages of having a child born into a “more secure” parental relationship rather than mention any lingering stigma they feared would attend the birth of a child out of wedlock. From their standpoint, it was precisely because, and not in spite, of the “progressive” (*fortschrittlich*) attitude harbored by East German officialdom towards youth that it should have been willing to grant an exception to the age of nubility for them.<sup>75</sup> In other words, Elfriede K. and Martin K. did not consider allowing the marriage of an underage bride to be a throwback to outmoded bourgeois marital practices that devalued the personhood of that bride, but instead a manifestation of the respect and support that the SED supposedly accorded to its youthful citizenry. From the Ministry of Justice’s standpoint, however, the very fact that

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<sup>74</sup> BArch Berlin-Lichterfelde, DO1 9743, letter from Referent Keßler, Rat des Bezirkes Erfurt, Abt. Innere Angelegenheiten, Referat Bevölkerungspolitik, PSW, to Werner V., March 6, 1957.

<sup>75</sup> BArch Berlin-Lichterfelde, DP1 SE 0415, letter from Elfriede and Martin K., Mengersgerenth-H. to MdJ, Berlin, Betreff: Heiratserlaubnis für unsere Tochter!, February 19, 1963, unpaginated.

parents were submitting an appeal on behalf of their daughter violated her right to make a fully informed decision about the timing of her own marriage.

### **The Unintended Consequences of Women's Empowerment**

SED officials were interested not only in the number of requests for an exception to § 1 of the Marriage Ordinance; they also wanted to know who was filing the petitions—i.e., prospective husbands, prospective wives, both members of a couple, or parents of either member of a couple. Male partners speaking on behalf of both members of a couple filed the preponderance of petitions on the subject that were directed to high-level governmental authorities. 70 percent of the petitions addressed to President Pieck revolved around pregnancy, but according to Ms. Thaler of the President's Chancellery, arguments pertaining to pregnancy-related household and economic concerns took precedence over the fear of moral blemish stemming from giving birth to a child out of wedlock.<sup>76</sup>

On the regional and local district level, however, the gender and age cohort profile of petitioners was quite different. In fact, according to an August 1957 report, only in the *Bezirke* of Frankfurt/Oder, Schwerin, Neubrandenburg, and Karl-Marx-Stadt did an absolute majority of such complaints come from male petitioners between January 1956 and mid-1957.<sup>77</sup> A measure that was supposed to empower young women to make their own informed decisions as fully-fledged adults about the advisability of entering

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<sup>76</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 3, MdJ, HA Gesetzgebung, Berlin, Betreff: Diskussion im Kollegium über die Analyse der Verfahren in Ehesachen, January 15, 1957, 2 of document, 270 back of archival file.

<sup>77</sup> BArch Berlin-Lichterfelde, DO1 9742, letter from Bergmann, Leiter der Hauptabteilung (hereafter HA) Innere Angelegenheiten im MdI, to alle Räte der Bezirke und Magistrat von Groß-Berlin, Abt. Innere Angelegenheiten, Betreff: § 1 Eheverordnung vom 24. November 1955, August 7, 1957.

into a marital contract was instead prompting them to call into question the desirability of precisely that mechanism of empowerment. Arguably, however, by prompting underage women to advocate for their right to wed, the new provision induced them to contemplate whether or not marriage was the necessary correlate of premarital pregnancy. In this sense, the SED *did* empower women to think about what it meant to enter into marriage rather than merely assume that marriage was their fate—even if the ultimate conclusions that many of these women drew were not what the SED had hoped would be the result of women’s heightened socialist consciousness. In the longer term, however, the law’s uncoupling of marriage and pregnancy helped to transform the popular “cultural language of sex” regarding not only premarital cohabitation, but also unwed motherhood in the GDR.

The underage would-be bride Erika W. assembled a bricolage of ideological principle, wisdom stemming from life experience, and knowledge derived from popular culture to contest the age of nubility on her own terms. She rather cheekily noted that more advanced age in and of itself was no guarantee of spousal maturity or marital stability:

Despite my youth, I allow myself to pass the following judgment: whoever does not have good character while young does not possess it at a more advanced age either. I would like to remind you of the many broken marriages of older and elderly people during the war and afterwards as well.<sup>78</sup>

Erika W. resented the condescending tone of the Ministry of Justice’s moral homily (*Moralpredigt*) in its response to her future mother-in-law Magdalene S.’s initial request

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<sup>78</sup> BArch Berlin-Lichterfelde, DP1 VA 1775, letter from Erika W., Gernstedt über Naumburg, to Hilde Benjamin, Minister der Justiz, January 1, 1957, 61 front side of archival file.

for an exemption from the law, and thus made clear that she was not merely a passive vehicle for the marital aspirations of her or her fiancé's parents.

Since Erika W. believed that youth in the GDR were being raised with a “liberal (*freiheitlich*)” mindset, they should be treated accordingly when it came to respecting their ability and right to make decisions about their own lives. Erika W. compared the obstacles posed by East German governmental officials to the fulfillment of her “most human (*das allermenschlichste*)” of all desires to the attempts by obstructionist parents who sought to thwart a love affair between high school students in the 1952 Swedish film *Because of My Hot Youth* (*Es geschah aus heißer Jugendliebe*). Finally, she sought to elicit sympathy for her status as a “refugee girl” (*Flüchtlingsmädchen*, an ethnic German who had presumably been displaced from her childhood home in east-central Europe) who was just trying to attain “orderly circumstances” (*geordnete Verhältnisse*) for her child by getting married.<sup>79</sup> As was the case for virtually all such petitions, Erika W.'s appeal did not meet with official approbation. Unlike in most cases, however, she managed to provoke the ire of Ministry of Justice official Kutschke, who deemed her letter to have been “impertinent (*ungehörig*)” in a conversation with Magdalene S., who traveled to the Ministry of Justice in Berlin in a renewed (and once again unsuccessful) attempt to secure permission for her son Joachim S. to marry Erika W.<sup>80</sup>

The situation turned dire when Erika W. threatened to decamp for West Germany or even take her own life if she did not receive permission to marry prior to her eighteenth birthday. In a response praised by Wiebach, the head of the Department of

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<sup>79</sup> Ibid., 61 front side-61 back side of archival file.

<sup>80</sup> BArch Berlin-Lichterfelde, DP1 VA 1775, memo by Kutschke, MdJ, Berlin, January 21, 1957, 62 of archival file.

Internal Affairs at the Halle District Council, for its “warm and hearty tone as well as tactful wording,” Schaefer, a spokesperson at the Ministry of Internal Affairs, sought to assuage the concerns of the potentially suicidal young woman with the following words:

We thank you for the trust that you have placed in Prime Minister (*Ministerpräsident*) Otto Grotewohl. Even if we are not able to provide you with the kind of assistance that you expect, we still hope that we can help you find a way out of your difficult situation. We have even more reason to believe that this will be the case since it is apparent from your letter that you are certainly ready to understand the demands that are being made of everyone in our republic in this day and age. We want to start by candidly stating that most working people do not consider giving birth out of wedlock to be morally objectionable, but they do object to the conclusions that you are drawing about it in your perplexed state. You would be doing an immense disservice to yourself and your child by fleeing to West Germany. It is indisputable that we do much more for mothers and children [than West Germany does], and if you were on your own in West Germany, you might run the risk of no longer leading a proper life (*die Bahn eines ordentlichen Lebens verlassen*). If you have ever loved your fiancé and the child that you are having together, then you cannot even entertain the thought of committing suicide.<sup>81</sup>

Schaefer thus reminded Erika W. that, as a single mother, she was far better off in the GDR than in the FRG, since the GDR’s more generous provision of services for unwed mothers would prevent her from having to resort to disreputable means of earning a living, as she would presumably have to do if she were to relocate to the FRG. Yet shortly after reassuring Erika W. that she had nothing to fear about becoming a single mother in East Germany, Schaefer backtracked:

We have to concede, however, that you are right when you say that the old morality persists across broad swaths of the rural population—even though many of these people are hypocrites. But can we change outmoded attitudes if we give in to them? Young people can only overcome this fusty morality if they proudly and honestly stand by their actions. You cannot undo what has been done, and

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<sup>81</sup> BArch Berlin-Lichterfelde, DO1 9742, letter from Hauptreferent Schäfer, Sekretariat des Ministerpräsidenten, to Erika W., Gernstedt über Naumburg, January 19, 1957, 1 of document.

your relatives will not allow themselves to be deceived about your pregnancy. We believe that the only viable way to counter all of this empty talk and these reproaches is for you and your fiancé to be brave and continue going through life together. Our role as state functionaries who are worthy of your trust is to ask that local governmental bodies look after you. You will thus find all the support that you need.<sup>82</sup>

Schaefer was one of the few officials who was willing to admit to a prospective underage bride that changes in moral views regarding the status of unwed motherhood had *not* in fact kept pace with the equal legal status conferred to children born within and out of wedlock upon the issuance of the Law for the Protection of Mother and Child and the Rights of Women in 1950. Given this state of affairs, however, Schaefer exhorted Erika W. and her fiancé to support one another as moral pioneers in the quest to combat atavistic attitudes in their community. Raising the age of marital consent in the Marriage Ordinance had thus not been a transparent reflection of altered popular mores, as other SED officials asserted, but instead served as a catalyst for expediting popular acceptance of nonmarital parenthood—and young women like Erika W. were to play a key role in advancing this process on the local level.

While the state would not accede to Erika W.'s desire for a premature marriage, it would without hesitation “look after” her and provide “all the support” (presumably both financial and moral) that she needed until she was old enough to tie the knot. Schaefer's reassuring words accord with the characterization of the GDR as a “welfare dictatorship” (*Fürsorgediktatur*); it was this aspect of SED rule that contributed to the retroactive characterization of East German citizenship in familial terms by some of those who had

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<sup>82</sup> Ibid.

spent their formative and young adult years under SED rule.<sup>83</sup> As Thomas Lindenberger has noted

Ironically, it was the state-citizen relationship in the extra-familial sphere which at the same time was articulated through an intensely familiaristic rhetoric. The party and state posed and acted as “parents” taking care of their “children” thus undermining the symbolic and material autonomy of the “real” families.<sup>84</sup>

There were definitely signs of this mindset in Schaefer’s language. Like a concerned father, Schaefer concluded his missive by writing, “It would be a pleasure to learn in one year that you took our recommendations to heart and that you got married when the time was right.”<sup>85</sup> But Schaefer’s ostensible encroachments upon familial autonomy stemmed from his desire to strengthen, not to weaken, the viability of a young marriage.

For all of the creativity evinced by female petitioners who sought to marry before attaining legal adulthood, many others besides Erika W. did not hide the fact that they did not relish the prospect of unwed motherhood, especially when they felt that other women in a situation analogous to their own had been able to evade such a fate. Indeed, some appellants were indignant that they did not receive exemptions from the law because they had heard of other couples that had been allowed to marry before a partner’s eighteenth birthday. One such young woman was Rosemarie S., who sought permission to marry before turning eighteen on April 23, 1957 and giving birth in March 1957. Unlike other

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<sup>83</sup> Konrad H. Jarausch, “Care and Coercion: The GDR as Welfare Dictatorship,” in *Dictatorship as Experience: Towards a Socio-Cultural History of the GDR*, ed. Konrad H. Jarausch (New York: Berghahn, 1999): 47-69; Dorothee Wierling, *Geboren im Jahr Eins: Der Jahrgang 1949 in der DDR: Versuch einer Kollektivbiographie* (Berlin: Ch. Links Verlag, 2002), 103-113.

<sup>84</sup> Thomas Lindenberger, “Everyday History: New Approaches to the History of the Post-War Germanies,” in *The Divided Past: Rewriting Post-War German History*, ed. Christoph Kleßmann (New York and Oxford: Berg, 2001): 44-89, here 60-61.

<sup>85</sup> BArch Berlin-Lichterfelde, DO1 9742, letter from Hauptreferent Schäfer, Sekretariat des Ministerpräsidenten, to Erika W., Gernstedt über Naumburg, January 19, 1957, 2 of document.

petitioners who sought to make premarital pregnancy seem like less of a salient rationale for their desire for a premature marriage, Rosemarie S. made her displeasure at the prospect of single motherhood quite explicit: “Why are things made so hard for us and why must I give birth to a child out of wedlock. [sic punctuation] After all, exceptions to the rule were granted last year—why not in this case?”<sup>86</sup> Rosemarie S. was presumably correct that underage marriages had been approved the previous year (1955), either before the Marriage Ordinance had taken effect or during the brief grace period when exceptions were still being granted, but she betrayed no awareness of the technicalities of the ordinance in her missive. She also believed that the state should allow her to marry since, unlike many other women who became pregnant before entering the matrimonial state, the father of her child was still around and *wanted* to marry her. From her perspective, why should she join the ranks of single unwed mothers when she could instead be a respectable, married one?

A would-be 22-year-old husband, Werner Ka., accused the government of effectively rewarding male profligacy by making it more difficult for young men to marry their pregnant girlfriends. He sought an exception to the prohibition against marrying his 17-year-old fiancée because “[a] man can act indifferently towards the fruit of free love (*freie Liebe*), but it is quite different for a woman. I would not want a tragedy to occur as a result of this law.” Aside from blackmailing the government into granting a marriage license so as to prevent his pregnant fiancée from committing a possible infanticide, Werner Ka. was arguing that their desire to marry did not stem merely from the need to avoid the societal censure of unwed parenthood. Instead, he

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<sup>86</sup> BArch Berlin-Lichterfelde, DO1 9742, letter from Rosemarie S., Bad Doberan, to Wilhelm Pieck, Präsident der DDR, August 6, 1956, 1-3 of document.

argued that the very concrete consequence of “free love”—namely pregnancy—was fraught with greater emotional consequences for the female than for the male partner.<sup>87</sup> He could, of course, have reassured his fiancée that he would not leave her even if she bore a child out of wedlock, although he might have done this without mentioning it in his correspondence with governmental officials. But in essence, he was calling upon the state to hold potentially cavalier men (like himself) to a heightened standard of responsibility that was put in jeopardy by the state’s failure to afford women sufficient protection from the vagaries of “free love.”

The desire for respectability was a frequently recurring theme in many missives pertaining to § 1 of the Marriage Ordinance, and it was not only women who clung to the “traditionalist” rejection of unwed parenthood as morally inferior to its marital counterpart, even though “proletarian anti-feminists” in the SED might have maintained otherwise. Peter S. argued that as a fully trained teacher, he had a “secure living” with which to support his pregnant underage fiancée, Dietlind D., and the child they were expecting in March 1957. Peter S. turned to President Pieck “because my fiancée and I rebuke ourselves every day for awaiting a child who will be born out of wedlock and thereby acquiring a bad reputation in our community and losing the trust and respect of our parents.” In other words, Peter was calling upon the President to support him in his quest to uphold his and his future family’s respectability and overcome the excessively rule-bound obstructionism of local authorities. Even though he and his fiancée were “rebuking” themselves for having gotten themselves into this situation in the first place, they felt as if their premarital pregnancy did not mean that they had completely

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<sup>87</sup> BArch Berlin-Lichterfelde, DO1 9742, letter from Werner Ka., Potsdam (with return postage for a letter of response still attached), to Wilhelm Pieck, Präsident der DDR, February 9, 1957.

squandered their claim to respectability. To this end, he employed the kind of obsequious language that, while not uncommon in other kinds of *Eingaben*, did not typically appear in letters from those seeking permission for an exception to the minimum age of marriage: Peter S. wrote to Pieck “in the hope of not having made an inappropriate request (*[i]n der Hoffnung, keine Fehlbitte getan zu haben*).”<sup>88</sup> This could be construed as false modesty, since Peter S. clearly thought that his request was an appropriate one, yet his epistolary decorum might have also been a manifestation of his desire to be seen as respectable.

Some petitioners appealed to President Pieck to help them burnish the image of socialist familial life against the onslaught of West German propaganda that alleged that the SED was hostile to the family. 23-year-old Wolfgang H. sought President Pieck’s help in securing permission to marry his pregnant seventeen-year-old fiancée Erika A. because “I feel as if I am harming the reputation of our social order since I am currently compelled to live with my future in-laws.” Wolfgang H. was concerned about the damage he was doing to “the reputation of our social order” in the eyes of fellow East Germans, but implicitly also from the perspective of West German critics who alleged that East German social policy was proving to be detrimental to the preservation of traditional familial norms and values. For Wolfgang H., his personal respectability was inextricably bound with that of the East German social order as a whole, and it was for

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<sup>88</sup> BArch Berlin-Lichterfelde, DO1 9742, letter from Peter S., Grimmen, to Wilhelm Pieck, Präsident der DDR, November 10, 1956.

this reason that he hoped President Pieck would see fit to intervene after local authorities had proven to be unresponsive to his appeal.<sup>89</sup>

Other appellants had a more expansive definition of respectability. Ursula S.'s desire to marry so as to avoid the stigma of giving birth to a child out of wedlock served to remind President Pieck that widespread prejudices (and especially those of her own parents) against unmarried mothers had not simply disappeared overnight, as the SED's propaganda about the legal equality afforded to children regardless of the marital status of their mothers was apt to proclaim. But unlike Peter S. and Dietlind D., who felt obliged to write that they "rebuked" themselves "every day," Ursula S. insisted that she and her fiancé led "virtuous lives" despite having engaged in premarital sexual intercourse. Hers was a particularly poignant articulation of the emerging acceptance of sexual activity before marriage in the East German "cultural language" of sex. Even more revealing, however, was her ostensible belief that Pieck would agree with her rationale for making an exception to the Marriage Ordinance, if only in her particular case. The local authorities, after all, were preventing her from being able to continue to lead a "virtuous life," and if they did not see the error of their ways, then presumably the President of the GDR would.<sup>90</sup>

The underage would-be bride Helene W., like many others, assumed that President Pieck would be willing to bend the law to accommodate her premarital pregnancy: "In my opinion, one cannot and must not go by the letter of the law in such a case, since it goes without saying that being single and giving birth to a child is a disgrace

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<sup>89</sup> BArch Berlin-Lichterfelde, DO1 9742, letter from Wolfgang H., Geitz, to Wilhelm Pieck, Präsident der DDR, January 11, 1957.

<sup>90</sup> BArch Berlin-Lichterfelde, DO1 9743, letter from Ursula S., Gotha/Thüringen, to Wilhelm Pieck, Präsident der DDR, October 25, 1956, unpaginated.

for me.” The taint of her act would last for years, since “bad boys” would tease her child when he got older.<sup>91</sup> At the same time, Helene W. felt that her punishment was not commensurate with her crime: “Have I really made such a huge mistake that I deserve such punishment?” And if Pieck could not take pity on her, then perhaps he could do so for her mother, who had made the ultimate sacrifice after having lost her husband during the war: “[I]t was a severe blow for [my mother] when she learned that I will have a child at such a young age, but through consoling words and persuasion she calmed me down. No one can reproach me since my conduct is blameless—and this provides [my mother] with further consolation.” Presumably the “blamelessness” of Helene W.’s conduct in her mother’s eyes lay not in getting pregnant in the first place, but in trying to rectify her transgression by getting married, since her mother had a nervous breakdown when she learned that her daughter would not in fact be able to wed until after her child was born.<sup>92</sup>

Helene W. was more savvy than some of her compatriots in appealing to the sensibilities of East German officialdom on at least one count: instead of hoping to get married in order to secure her husband’s financial support, she instead emphasized that getting married would relieve her mother of the emotional burden that a loss of respectability would entail. Her mother would consequently become well enough to take care of her child and thus enable Helene W. to further her vocational education later that year.<sup>93</sup> For Helene W., getting married would allow her to avoid the supposedly outdated moral taint of premarital pregnancy *and* enable her to contribute more fully to the building of socialist society through her workforce participation.

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<sup>91</sup> BArch Berlin-Lichterfelde, DO1 9743, letter from Helene W., Großzschepe (Kreis Wurzen), to Wilhelm Pieck, Präsident der DDR, January 26, 1957, 2 of document.

<sup>92</sup> Ibid., 3 of document.

<sup>93</sup> Ibid., 4 of document.

Some petitioners—and not just individuals from more rural, provincial areas—did not feel the need to disguise their “bourgeois” conception of marriage. Hirsch, a functionary in the Ministry of Internal Affairs’ central Berlin office, took issue with prospective husband Hermann H.’s understanding of marriage that necessarily relegated the female partner to a domestic and dependent role. Hirsch averred that marriages involving underage brides were conducive to making them dependent upon their adult husbands (*ein bestimmtes Abhängigkeitsverhältnis*), thereby abnegating the equality of the sexes.<sup>94</sup> It is significant that Hirsch felt the need to explain this logic to the Zwickau District Council, which was in turn to impart the information to Hermann H. Hirsch did not assume that local-level officials were sufficiently well-informed about socialist marital values so as to be able to defend the rationale behind § 1 of the Marriage Ordinance—even in the face of a defiant petitioner like Hermann H., who originally threatened to abscond to the FRG if he could not marry his underage bride in the GDR.<sup>95</sup>

In his appeal to President Pieck, Joachim W. of Berlin-Pankow, for instance, noted that his pregnant underage fiancée Ursula K. “runs the household and I support her. We have everything that a married couple needs.”<sup>96</sup> Joachim W. had apparently not absorbed the SED’s propaganda about the need for women to enter the workforce and not

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<sup>94</sup> BArch Berlin-Lichterfelde, DO1 9743, letter from Oberreferent Hirsch, MdI, Berlin, HA Innere Angelegenheiten, PSW, to Rat des Kreises Zwickau, Abt. Innere Angelegenheiten, October 10, 1956.

<sup>95</sup> BArch Berlin-Lichterfelde, DO1 9743, letter from Hermann H., Zwickau, to MdI, Berlin, September 16, 1956. Hermann H. eventually agreed to wait, albeit only until nineteen days before his girlfriend’s eighteenth birthday so that they could secure communal vacation accommodations from his employer, Wismut. The Zwickau District Council instructed him to wait until his girlfriend’s eighteenth birthday to get married and in the meantime to present Wismut with proof that they would soon be married; if Wismut still did not offer a vacation apartment for him and his girlfriend when presented with such documentation, then the District Council was prepared to intervene: BArch Berlin-Lichterfelde, DO1 9743, Auerswald, Aktennotiz, Rat des Kreises Zwickau, October 17, 1956.

<sup>96</sup> BArch Berlin-Lichterfelde, DO1 9743, letter from Joachim W., Berlin to Präsidialkollegium [Wilhelm Pieck, Präsident der DDR], March 2, 1957, 2<sup>nd</sup> page of document.

simply rely upon their husband's earnings for their financial sustenance. Yet the fact that Ursula K. had already moved into Joachim W.'s apartment meant that their relationship did not have an entirely "traditionalist" cast. When he tried to obtain a marriage license from the registry office in Berlin-Pankow, he was chastised for not having been "more careful" when having sex with his fiancée.<sup>97</sup> While the registry office functionary did not condemn premarital sexual intercourse outright, he or she did assume that the male partner should have done more to prevent the eventuality of a premature pregnancy—it was he, and not Ursula K., after all, who was supposed to have been "more careful" and taken the leading role in birth control decision-making.<sup>98</sup> Given the dearth of contraceptive options in the GDR at this time, being "more careful" presumably meant the practice of *coitus interruptus*.

Joachim W.'s vision of premarital life thus adhered to a "traditionalist" model when it came to the gendered distinction between male public workforce participation and female private household labor, but deviated from that model when it came to premarital cohabitation and sexual activity. But when he presented his mixture of "bourgeois" and "socialist" premarital behavior as grounds for securing a marriage license, the registry office functionary criticized him for his insufficiently "careful" sexual activity and not for his decidedly non-socialist view of marital harmony as being predicated upon "traditional" gender roles with respect to labor inside and outside of the home. During the mid-1950s, it would appear that not all state officials were committed

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<sup>97</sup> Ibid., 3<sup>rd</sup> page of document.

<sup>98</sup> The *Standesamt* official's exhortation corroborates the spirit of Kate Fisher's findings for Britain, namely that prior to widespread availability of the Pill, and contrary to widespread assumptions that birth control during the early to mid-twentieth-century was primarily the preserve of women, men often took the lead in contraceptive decision-making. See Kate Fisher, *Birth Control, Sex and Marriage in Britain, 1918 to 1960* (New York: Oxford University Press, 2006).

to promoting *all* kinds of “socialist” marital values, which in the SED’s estimation would have also entailed condemnation of premarital sexual activity of any kind, whether “careful” or not.<sup>99</sup>

Condemnation of premarital sexual activity was a higher priority for Dr. Helmut Ostmann of the Ministry of Justice, who worried that the barrier to carnal encounters for those under the age of eighteen would be much lower if legal minors knew that they could get married when their sexual encounters resulted in pregnancy. In his estimation, raising the age of marital consent for women to eighteen was another way in which the SED could fulfill its goal of enforcing sexual propriety and restraint among young people. Ostmann argued that granting exemptions from the law would

foster a recklessly immoral attitude (*eine leichtfertige moralische Einstellung*) towards sexual intercourse. It is the duty of parents, other guardians (*Erzieher*), and also of doctors to provide helpful advice to young people about their sexual problems. Allowing for the possibility of premature, injudicious marriage (*einer verfrühten unüberlegten Eheschliessung*) would not provide the requisite educational guidance [to young people].<sup>100</sup>

## **The State *in Loco Parentis*: A Curtailment of Female Empowerment and Familial Autonomy?**

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<sup>99</sup> The FRG’s government was far less ambivalent in its condemnation of premarital sexual activity. Since the *Bundesgerichtshof* opined in a 1954 decision that society’s moral codex set the tone for West German family law and that the only acceptable purpose of sexual intercourse was procreation, it upheld criminal prosecution of parents for procurement (*Kuppelei*) if they allowed their adult children to share a bed even if their offspring were engaged to be married. Sibylle Buske, *Fräulein Mutter und ihr Bastard: Eine Geschichte der Unehelichkeit in Deutschland 1900 bis 1970* (Göttingen: Wallstein, 2004), 211.

<sup>100</sup> BArch Berlin-Lichterfelde, DP1 VA 1775, letter from Helmut Ostmann, Leiter der HA Gesetzgebung, MdJ, Berlin, to Chefarzt Dr. Wilhelm, Krankenhaus Fürstenberg-Havel, March 25, 1958, 2 of document, 87 back side of archival file.

For Ute Schneider, the Marriage Ordinance was merely one prong of paternalistic SED rule that sought to transform the young woman from a victim in need of protection (*schutzbedürftiges Opfer*) into an object of educational influence (*Erziehungsobjekt*). Instead of having her male family members treat her as not fully adult (*unmündig*), it was the state that arrogated to itself this patriarchal role.<sup>101</sup> This usurpation of paternal authority by the state put some East German fathers in the unique position of trying to ward off the state's paternalistic prerogative by asserting that their underage daughters were in fact mature enough to make their own decisions about such adult matters as the timing of their weddings—without governmental *or* parental intervention.<sup>102</sup>

Werner Ku. of Berlin, writing on behalf of his underage daughter Gerdis Ku., felt that any minimum age for marital consent was necessarily an arbitrary one, since the mere fact of being eighteen years of age did not automatically confer maturity upon an individual:

It is out of love for my daughter that I would like to help her take an auspicious and unencumbered step into a new phase of her life. I am of the opinion that a young person who is 17  $\frac{3}{4}$  years old can certainly possess the moral, corporeal, and mental maturity that the new law expects of an eighteen-year-old. The truly profound affection that both partners harbor for one another, their secure living situation, and their very open-minded attitude toward our society render meaningless any formalistic legal reservations about granting this couple permission to marry.<sup>103</sup>

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<sup>101</sup> Schneider, *Hausväteridylle*, 349.

<sup>102</sup> Dorothee Wierling identifies the desire of families to present a unified front against unwarranted governmental intervention as a key reason for the relative lack of generational conflict in the GDR of the 1960s and 1970s; Wierling, *Geboren im Jahr Eins*, 332.

<sup>103</sup> BArch Berlin-Lichterfelde, DO1 9743, letter from Werner Ku., Berlin, to Wilhelm Pieck, Präsident der DDR, January 3, 1957.

Readiness for marriage was, in Werner Ku.'s mind, not so much a matter of legal adulthood as of maturity, sexual and otherwise—and he hoped that President Pieck would realize this even though the Registry Office in Berlin-Treptow and the Magistrate of Greater Berlin had not. Yet Werner Ku. went further than most petitioners did: he invoked medical expertise to support his case, in the form of a doctor's note from an internist working at the Berlin-Mitte District Council; this doctor was of the opinion that marrying on the desired date (January 19, 1957) would prevent Werner Ku.'s daughter from having to endure irritation (*Aufregungen*) that would be deleterious to her health.<sup>104</sup> It is noteworthy that this doctor apparently believed that her professional opinion might succeed in swaying President Pieck's opinion in Werner Ku.'s direction, but his petition, like so many others, was rejected.<sup>105</sup>

Helmut G. believed that both his underage daughter Annerose G. and her fiancé Heinz S. had a sufficiently “serious attitude” towards life to be ready for marriage—he by virtue of his age (twenty-four), and she by virtue of her pregnancy. Their relationship was a “real life partnership (*echte Lebenskameradschaft*),” and because of this, Helmut G. believed that the state should allow them to become “a healthy cell of our democratic republic”; like other petitioners, Helmut G. did not shy away from making a link between individual bodies joined by marriage and the vitality of the social body.<sup>106</sup> Bergmann of the Ministry of Internal Affairs sought to appeal to Helmut G.'s desire to advance his daughter's best interests by noting that § 1 of the Marriage Ordinance protected young

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<sup>104</sup> Ibid.

<sup>105</sup> BArch Berlin-Lichterfelde, DO1 9742, letter from Rüdiger, Leiter der Abt. Innere Angelegenheiten, Magistrat von Groß-Berlin, PSW, to MdI, HA Innere Angelegenheiten, Berlin, March 21, 1957.

<sup>106</sup> BArch Berlin-Lichterfelde, DO1 9743, letter from Helmut G., Elsterberg, to MdI, Staatssekretariat für Innere Angelegenheiten, Berlin, Betreff: Ihr Schreiben vom 10. März 1956, Eheschließung meiner Tochter Annerose gem. meinem Gesuch vom 22. Februar 1956, May 3, 1956.

brides from a “certain hegemony (*eine gewisse Vormachtstellung*)” that their older husbands might adopt towards them if they were not yet adults in the eyes of the law.<sup>107</sup>

Bergmann tactfully chose to avoid mentioning that § 1 of the Marriage Ordinance was *also* supposed to protect young women’s autonomy from the intervention of solicitous parents like Helmut G. himself. Thus, even as the statute was supposed to reflect the equal status of men and women in the GDR, it also constituted a tacit recognition that the resilience of older norms necessitated the vigorous application of legal protection to ensure that young women would not in fact have to cede their autonomy, legal or otherwise, to parental or spousal authority figures. This was yet another instance in which socialist jurisprudence at least in principle did a better job of safeguarding what the SED took to be women’s *individual*—as opposed to collective or familial—interests than “bourgeois” family law had done. But this protection came with a price: women who were not yet legal adults would have to allow the state to make decisions about their marital prospects that would otherwise have been made by family figures or romantic partners, at least until they were eighteen years of age. From the perspective of many underage women, then, § 1 of the Marriage Ordinance had not done anything palpable to expand their sphere of autonomy; if anything, it had reduced it for those young women who were in agreement with their parents and future husbands about the advisability of an underage marriage. Ironically, the Ministry of Justice gave as one of its reasons for not granting exceptions to § 1 of the Marriage Ordinance the fact that doing so would effectively revoke the right of parents to exert decision-making power for

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<sup>107</sup> BArch Berlin-Lichterfelde, DO1 9743, letter from Bergmann, Leiter der HA Innere Angelegenheiten, MdI, to Helmut G., Elsterberg, Betreff: Eheschließung Ihrer Tochter Annerose, May 26, 1956.

pregnant daughters who were, after all, still their legal dependents.<sup>108</sup> The problem, however, was that these parents were invariably using their authority to convince their children to embark upon what the government considered to be ill-advised—and illegal—marriages.

Some underage petitioners did not mind governmental figures acting *in loco parentis*—as long as officials were willing to exercise their authority to circumvent a law that infringed upon familial autonomy. It was for this reason that numerous appellants, including Waldemar P. and Helga H., referred to President Pieck as the “father of the country (*Landesvater*).”<sup>109</sup> In Waldemar P. and Helga H.’s estimation, Pieck, like the father of a young person desirous of marriage, should have been willing to exert his paternal authority and allow the dictates of respectability and familial integrity to prevail over the laws of the government.<sup>110</sup> The prospective groom Siegfried S., who mistakenly believed that the West German age of marital consent for men (twenty-one) was still valid for East Germany, promised that if President Pieck were to grant his request to marry his bride (who had not yet turned eighteen years of age), then he would welcome Pieck as a guest at his wedding—the ultimate recognition of Pieck not only as the father

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<sup>108</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 3, MdJ, HA Gesetzgebung, Berlin, Analyse über das Verfahren in Ehesachen im II. Halbjahr 1956, Auswirkung der Neufestsetzung der Ehemündigkeit (§ 1), December 18, 1956, 4 of document, 163 back side of archival file.

<sup>109</sup> Pieck’s widely acknowledged status as *Landesvater* made him the most popular addressee for East German *Eingaben* during the 1950s. See Mühlberg, *Bürger, Bitten und Behörden*, 76, 79-83, 108, 202-203; Betts, *Within Walls*, 188, 191.

<sup>110</sup> BArch Berlin-Lichterfelde, DO1 9742, letter from Waldemar P. and Helga H., Harzungen, to Wilhelm Pieck, Präsident der DDR, Betreff: Gesuch um Erteilung der Ausnahmegenehmigung zum eingehen [sic lowercase] der Ehe, April 8, 1957.

of the country, but as an honorary father to those young people whom he would hopefully take under his wing.<sup>111</sup>

While Pieck—or, more specifically, his underlings—ultimately proved unsympathetic to such entreaties, officials were decidedly more ambivalent about the applicability of the new age of marital consent when it contravened the customs of the Sorbian ethnic minority.<sup>112</sup> In one case, the entire Sorbian community in the town of Neustadt/Hoyerswerda and its local government (*Gemeindevertretung*) rallied in support of a pregnant sixteen-year-old woman’s desire to marry her twenty-one-year-old male partner. When told by the Cottbus Regional Council that there was no shame or disadvantage associated with giving birth out of wedlock or living together before marriage, two relatives of the couple retorted that “even if they [the would-be bride and groom] live together until they get married [...] according to Sorbian customs, unmarried young people had the status neither of youth nor of married adults and were practically excluded from Sorbian social life as long as they remained unmarried.”<sup>113</sup> The marriage ceremony, to be conducted in Sorbian and with participants wearing Sorbian attire, was a culturally significant event that marked the ceremonial induction of the bride into her in-laws’ household, according to these relatives. Still, it is noteworthy that this Sorbian couple felt that a marriage would only “count” as far as Sorbian custom was concerned if it had the imprimatur of official state approval. The couple might, after all, have elected

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<sup>111</sup> BArch Berlin-Lichterfelde, DO1 9743, letter from Siegfried S., Antonshöhe/Schwarzenberg, to Wilhelm Pieck, Präsident der DDR, May 31, 1956, unpaginated.

<sup>112</sup> Cf. Cora Granata, “‘The Ethnic Straight Jacket’: Bilingual Education and Grassroots Agency in the Soviet Occupied Zone and German Democratic Republic, 1945-1964,” *German Studies Review* 29, no. 2 (May 2006), 331-346.

<sup>113</sup> BArch Berlin-Lichterfelde, DO1 9742, Stellungnahme zum Antrag auf Eheschließung S./W., Neustadt (Kreis Hoyerswerda), by Schahn, Leiterin der Abteilung Innere Angelegenheiten, Rat des Bezirkes Cottbus, PSW, June 4, 1956.

to conduct an unofficial ceremony for the sake of upholding their customs if they encountered difficulty or opposition in securing permission from the government.

Their appeal resonated with an official named Marschallek, who consulted with the regional Ministry of the Internal Affairs' Department for Sorbian Questions in Bautzen. If denying an underage woman permission to marry would consign her to a form of social death, then Marschallek wondered if there was a way to reconcile Sorbian custom with the new age of marital consent. Did it make any difference whether the objections to the law were based upon Sorbian, or more generally religious, customs? In the meantime, Schahn, an official at the Cottbus Regional Council, informed the petitioners about the ban on underage marriage as she would have done in any other instance. But she also felt that officials in Berlin might have to give special consideration to the question of how and whether the Marriage Ordinance should be adapted to honor the customs of ethnic minorities like the Sorbians.<sup>114</sup>

Local officials exhibited less flexibility when it came to the question of honoring religious particularism for ethnic Germans. After Franz R. learned on March 27, 1957 that he could not marry his underage bride, his mother went to the Wernigerode District Council to plead her son's case. Both her son and his wife-to-be wanted a religious marriage ceremony, and they feared that the church would not marry them if the fiancée had already given birth to a child. Unlike in the case with the Sorbian couple, however, this couple's desire to have a non-state-officiated wedding ceremony—while still receiving state recognition of the marriage—did not make state officials consider the possibility of allowing for a potential loophole in the law. It would seem as if cultural

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<sup>114</sup> Ibid.

specificity trumped religious difference as grounds for *potentially* adapting the law to individual circumstances. This was not terribly surprising, given the tendentious relationship between the SED and Christian churches in the GDR during the 1950s.<sup>115</sup> Nonetheless, Wernigerode District Council officials claimed that they had successfully persuaded Franz R.'s mother to convince her son and his bride to wait until the latter turned eighteen to tie the knot—without explaining how they had persuaded her to overcome her religious scruples.<sup>116</sup>

### **The Limits of Democratic Centralism**

Even though the Ministries of Justice and of Internal Affairs adopted a hard line about not granting exceptions to the age of marital consent, they also mandated strict adherence to § 6, section 1 of the Marriage Ordinance, which stipulated that a marriage was valid if a license was granted by a registry office even if the registry office's decision to grant that marriage license had been in error—regardless of whether that error was intentional or not.<sup>117</sup> The presumption underlying this legal provision was that the registry office functionaries should be better versed and more invested in upholding the new marriage law than couples intending to marry. But this provision inadvertently provided a loophole for local officials who disagreed with the premise underlying the new age of marital consent, thereby exposing the limits of the “democratic centralism”

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<sup>115</sup> Ehrhart Neubert, “Kirchenpolitik,” in *DDR-Geschichte in Dokumenten: Beschlüsse, Berichte, interne Materialien und Alltagszeugnisse*, 2<sup>nd</sup> edn., ed. Matthias Judt (Berlin: Ch. Links Verlag, 1998 [1997]), 363-430, here 365-366; Detlef Pollack, *Kirche in der Organisationsgesellschaft. Zum Wandel der gesellschaftlichen Lage der evangelischen Kirchen in der DDR* (Stuttgart: W. Kohlhammer, 1994).

<sup>116</sup> BArch Berlin-Lichterfelde, DO1 9743, letter from Bierwagen, Leiter der Abt. Innere Angelegenheiten and Hartmann, Sachbearbeiterin, Rat des Kreises Wernigerode, to MdI, Berlin, HA Innere Angelegenheiten, May 17, 1957.

<sup>117</sup> BArch Berlin-Lichterfelde, DO1 9742, letter from HA-Leiter Helmut Ostmann, MdJ, Berlin, to MdI, HA Innere Angelegenheiten, Berlin, Betreff: Eheschliessung einer Minderjährigen, December 15, 1956.

that ostensibly characterized East German governance. Indeed, if the state was willing to legitimize some marriages that violated the letter of the law, then it was being disingenuous about the need for strict and uniform application of the age of marital consent.<sup>118</sup>

Local governmental officials, whether out of ignorance of the new law or willful defiance of it, continually issued unauthorized exemptions from § 1 of the Marriage Ordinance. In the region of Schwerin, for instance, five marriages were contracted in 1956 that involved underage brides—one in April, one in July, one in November, and two in December—the last three occurring a full year after the Marriage Ordinance had taken effect.<sup>119</sup> Schwerin was not alone in this regard: the region of Potsdam, for instance, reported two marriage licenses issued prematurely as late as November 1956.<sup>120</sup> In the region of Halle, there were three marriage licenses issued to underage couples in July and December 1956.<sup>121</sup> And an official by the name of Fechner in the town of Silberhütte told a father-in-law-to-be that the government would grant exceptions to § 1 of the Marriage Ordinance as late as March 1957, even after the government had denied so many requests for such exceptions on the local, regional, and national level.<sup>122</sup>

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<sup>118</sup> BArch Berlin-Lichterfelde, DO1 14398, letter from Neubert, Leiter der Bezirksverwaltung Dresden-Staatssekretariat für Innere Angelegenheiten, MdI, Abt. Bevölkerungspolitik/PSW, to MdJ, Berlin, October 20, 1954, 2 of document.

<sup>119</sup> BArch Berlin-Lichterfelde, DO1 9742, report from Bülow, Leiter der Abteilung Innere Angelegenheiten, Rat des Bezirkes Schwerin, to MdI, HA Innere Angelegenheiten, March 30, 1957.

<sup>120</sup> BArch Berlin-Lichterfelde, DO1 9742, note from Hauptreferent Voigt, Rat des Bezirkes Potsdam, Abt. Innere Angelegenheiten, to MdI, HA Innere Angelegenheiten, March 28, 1957.

<sup>121</sup> BArch Berlin-Lichterfelde, DO1 9742, letter from Wiebach, Leiter der Abt. Innere Angelegenheiten, Rat des Bezirkes Halle, PSW, to MdI, HA Innere Angelegenheiten, PSW, Betreff: § 1 der Eheverordnung vom 24. November 1955, May 7, 1957.

<sup>122</sup> BArch Berlin-Lichterfelde, DO1 9742, letter from Beauftragte für PSW, Rat der Gemeinde Siptenfelde, Kreis Quedlinburg, to Rat des Kreises Quedlinburg, Abt. Inneres, March 13, 1957.

Given such attitudes on the part of at least some local officials, it is not surprising that some couples chose to “shop around” until they found a sympathetic registry office official.<sup>123</sup> When one couple—one half of which was a 16 ½-year-old pregnant farmer’s daughter—did not receive permission to wed in Zschoppach, it approached a Cannewitz registry office official with the same inquiry just one week later; in both cases, the registry office functionaries felt compelled to consult with the Grimma District Council before issuing their final decision to the couple rather than rejecting their requests out of hand. Despite the would-be spouses’ tenacity in trying to circumvent the Marriage Ordinance, they supposedly agreed (after their second futile attempt) that “following our laws was an absolute necessity and that their marriage would take place at the appropriate time.”<sup>124</sup>

This couple was far from alone in seeking to take advantage of bureaucratic capriciousness. When Mr. C. failed in 1957 to obtain a marriage license for his underage daughter at the registry office in Poseritz, he convinced Becker, an official at the Rügen District Council, to override the registry office’s initial decision. Following the advice of a colleague in his own office, the Poseritz official declined to abide by Becker’s injunction, however, and denied Mr. C.’s request a second time. But the official apparently still harbored doubts about the wisdom of this decision, since she or he asked the Rostock Regional Council about the best course of action to pursue.

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<sup>123</sup> Hilde Benjamin opined that unlike other submitters of *Eingaben*, couples seeking an exemption from § 1 of the Marriage Ordinance did not tend to migrate from one institution or agency to another to get what they wanted; the archival trail would seem to suggest otherwise. See BArch Berlin-Lichterfelde, DO1 9742, letter from Hilde Benjamin, Minister der Justiz, to Karl Maron, Minister des Innern, February 13, 1957, Betr.: § 1 der Eheverordnung, Anlage: Auszug aus dem Protokoll über die 1. Sitzung des Kollegiums des MdJ am Donnerstag, dem 10. Januar 1957, 4 of document.

<sup>124</sup> BArch Berlin-Lichterfelde, DO1 9742, Aktennotiz, Rat des Kreises Grimma, Abteilung Innere Angelegenheiten, PSW, January 26, 1956.

The Regional Council directed the official to refrain from presiding over the marriage while Mr. C.'s daughter was still underage, and the official assumed that Mr. C. finally acquiesced to this decision since he did not show up at the registry office again.<sup>125</sup> Whether or not Mr. C. resigned himself to the law's provisions, it is noteworthy that, like Mr. C., the Poseritz Registry Office functionary did some shopping around of his or her own, namely by appealing to officials at different levels of government to confirm or deny his or her own inclination to issue a marriage license. The functionary would presumably not have bothered to ask whether she or he could issue a marriage license to an underage couple if she or he had not been prepared to do so if given the green light by higher-level authorities.

Indeed, given the assumption on the part of many high-level governmental officials that support for socialist marital legal provisions would be virtually automatic, it is striking how frequently lower-level governmental officials—including those who did not have the power to grant marriage licenses—took the side of prospective underage brides who hoped to obtain an exemption from the law. Dohna, the head of the National Front's office in Gadsdorf, for instance, wrote to the Ministry of Internal Affairs on behalf of Christel L, who wanted to get married to her fiancé Günter O. before she turned eighteen and before she gave birth to her child. Since both sets of parents supported this wish, and since Christel L. had been an active FDJ member whose diligence had resulted in her promotion to manager of the local retail store, Dohna argued that even though “[w]e are aware of the laws regarding marriage[,] [...] [i]s there not a provision stipulating that an exception to the rule can be granted for extraordinary cases—

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<sup>125</sup> BArch Berlin-Lichterfelde, DO1 9742, letter from Der Beauftragte für PSW, Rat der Gemeinde Poseritz, to Rat des Kreises Rügen, PSW, April 30, 1957.

especially since this is a woman who can be groomed to do much for our state and she is only a few months away from turning eighteen?” Dohna did not seem to realize—or if he did realize it, he disagreed—that premarital pregnancy no longer constituted an “extraordinary case” as far as East German marital law was concerned, and that a store manager was apparently less crucial to the success of the socialist project than a worker at a Machine-Tractor Station. He also felt that the government could only win over its constituents by being responsive to their concerns—and this was precisely what he, as a representative of the National Front, was trying to do: “The local office of the National Front would be happy to demonstrate to people that we care about their troubles and can help to resolve them.”<sup>126</sup> In other words, for Dohna, the National Front was not merely a *pro forma* institutional manifestation of the GDR’s political unity and societal uniformity, but instead a vehicle for advocacy for individuals facing a government that was not always attuned to their concerns.

Unsurprisingly, the Ministry of Internal Affairs did not prove amenable to Dohna’s appeal, and dismissed his arguments with its typical rhetoric about the lack of disadvantage associated with giving birth to a child out of wedlock and the need for an eighteen-year-old’s level of maturity in order for a marriage to be truly viable. The Ministry thus expected Dohna to effect an about-face in his own opinion about the justifiability of Christel L.’s appeal and to convince all parties involved that “the rejection of their request was in their own best interests.”<sup>127</sup> Instead of advocating on behalf of a

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<sup>126</sup> BArch Berlin-Lichterfelde, DO1 9742, letter from Dohna, Vorsitzender, Ortsausschuss der Nationalen Front, Gadsdorf, Kreis Zossen, to Hirsch, MdI, HA Innere Angelegenheiten, PSW, April 11, 1957.

<sup>127</sup> BArch Berlin-Lichterfelde, DO1 9742, letter from Bergmann, kommissarischer Leiter der HA Innere Angelegenheiten, MdI, to Ortsausschuß der Nationalen Front Gadsdorf, Kreis Zossen, Betreff: Beantragte Eheschließung des FrI. Christel L., geb. am 31. Dezember 1939, April 20, 1956.

politically dedicated would-be-bride, Dohna had to tell her that the state to which she had committed herself so fervently now deemed her consciousness to be backward in this regard and thus felt that it knew better than she did what was best for her. Apparently, it did not matter to the Ministry of Internal Affairs whether Christel L.'s political ardor might diminish as a result.

At least one registry office functionary who failed to abide by the new age of nubility and issued a premature marriage license appears to have paid for this mistake with his or her job. While the documentation did not explicitly mention this as the reason for the termination of employment, in the absence of any other explanation, one can assume that it was a decisive factor.<sup>128</sup> Sometimes, local officials who had violated § 1 of the Marriage Ordinance claimed—whether disingenuously or not, it is hard to say—that they had not done so intentionally. Anders, an official at the Conradsdorf Community Council (*Rat der Gemeinde*) confessed to having officiated a wedding ceremony involving underage partners on April 6, 1957, and she admitted that she had been wrong to do so. Her excuse was that her office was still using the old marital consent forms after the Marriage Ordinance took effect, and she simply forgot about the stipulations of the new law. Apparently, word of her ostensible willingness to break the law had spread to at least one other underage couple from another municipality, and Anders wound up marrying them as well on May 22, 1957; she blamed a heavy workload for her repeat infraction. Ironically, Anders claimed that her colleagues often accused her of being a “paragraph person” (i.e., someone who typically followed the rules too closely), and

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<sup>128</sup> BArch Berlin-Lichterfelde, DO1 9742, note from Hartung, Abteilungsleiter, Rat des Kreises Halberstadt, PSW, to Rat des Bezirkes Magdeburg, Abteilung Innere Angelegenheiten, PSW, March 22, 1957.

given this reputation, the two violations of § 1 of the Marriage Ordinance were supposedly very much out of character for her.<sup>129</sup> Whether Anders was truly contrite or not, a Freiberg District Council supervisor did not feel obliged to issue an apology on Anders' behalf.<sup>130</sup>

### **Officials' Conflicting Opinions Regarding the Age of Marital Consent**

Even as many Ministry of Justice and Ministry of Internal Affairs officials remained steadfast in their commitment to retaining the age of marital consent, they did wonder whether its implementation would exacerbate the problem of “flight from the republic” (*Republikflucht*). The government's unwillingness to grant exceptions to the rule prompted some East Germans to threaten to circumvent the law by getting married in West Germany, where women as young as sixteen years of age could receive a marriage license with their parents' permission.<sup>131</sup> Officials wondered whether East Germans would actually carry out this threat, whether they were successful in getting married in West Germany and on what legal basis, and whether they returned to the GDR soon after getting married in the FRG.

In 1950, the situation was reversed as far as the permissiveness of the age of marital consent was concerned: the GDR lowered the age of nubility for men from twenty-one to eighteen to reflect the new East German age of majority. Since the age of

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<sup>129</sup> BArch Berlin-Lichterfelde, DO1 9743, letter from Anders, Beauftragter für PSW im Rat der Gemeinde Conradsdorf, to Rat des Kreises Freiberg, Abteilung PSW im Bezirk Karl-Marx-Stadt, May 25, 1957, unpaginated archival file.

<sup>130</sup> BArch Berlin-Lichterfelde, DO1 9742, note from Weigandt, Rat des Kreises Freiberg, Leiter der Abt. Innere Angelegenheiten, to Rat des Bezirkes Karl-Marx-Stadt, September 2, 1957.

<sup>131</sup> Interestingly, despite the lower age of marital consent in the FRG, “[i]n 1960, 30 percent of West German women marrying for the first time and 37 percent of all East German brides were not yet twenty-one.” Heineman, *What Difference Does a Husband Make?*, 235.

majority and default age of marital consent remained at twenty-one in the FRG, this East German reform would conceivably have provided West German men between the ages of eighteen and twenty-one with an incentive to decamp to the GDR in order to wed. To prevent this from happening, the West Berlin Supervisory Agency for Registry Offices instructed its employees not to recognize marriages of West Berlin male residents between the ages of eighteen and twenty-one that had been contracted at an East German registry office. From the standpoint of East German authorities, however, the West Berlin agency's position was untenable and thus could be disregarded. The SED considered the minimum age of marital consent in the FRG to be an "impediment to marriage dependent upon precedent" (*aufschiebendes Ehehindernis*)—in other words, it could prevent a marriage from taking place, but did not apply retroactively to an "illegal" marriage once a functionary had approved it. A less legalistic and more feisty statement of this principle could be found in July 1950 correspondence between East German officials: "We cannot grant agencies in a western separatist state that came into being by illegal means the right not to recognize [such marriages]." <sup>132</sup>

A torrential influx of young West German grooms into East Germany did not materialize. <sup>133</sup> But the fear that East German couples would seek to circumvent § 1 of the Marriage Ordinance by going to the "western separatist state" was realized in several instances, such as when Gisela H. and Hans H. of Magdeburg absconded to the FRG to

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<sup>132</sup> BArch Berlin-Lichterfelde, DO1 7211, Sektion 152: Ehemündigkeit, letter from Landesregierung Brandenburg, HA Staatliche Verwaltung, to MdI, Berlin, July 29, 1950; BArch Berlin-Lichterfelde, DO1 7211, Sektion 152: Ehemündigkeit, letter from Landesregierung Brandenburg, HA Staatliche Verwaltung, to MdI, Berlin, July 10, 1950.

<sup>133</sup> This was not least because West German men between the ages of eighteen and twenty-one could get married with parental permission. Men under the age of eighteen and women under the age of sixteen could wed at the discretion of a West German guardianship court (*Vormundschaftsgericht*). deNuys-Henkelmann, "Wenn die rote Sonne abends im Meer versinkt," 119.

get married before Gisela H. turned eighteen.<sup>134</sup> Magdeburg Regional Council official Böge did not hesitate to scold the registry office functionaries in the West German town Bad Lauterberg im Harz for having married this couple on November 3, 1956, since neither had a permanent residence in the FRG and thus neither should have been subject to West German law.<sup>135</sup> East German officials, Böge noted, would not allow West German men under the age of twenty-one to come to East Germany to get married, even though East German law allowed men *and* women who were at least eighteen years of age to get married. And Böge feared that the Bad Lauterberg incident was not an isolated one: the Department of Internal Affairs at the Wernigerode District Council had determined that West German authorities were allowing East German citizens to wed in the FRG without special authorization even if their permanent residence was in the GDR.<sup>136</sup>

Hegen, State Secretary at the Ministry of Internal Affairs, openly questioned whether the inflexible application of § 1 of the Marriage Ordinance was appropriate for the geopolitical circumstances in which the GDR was operating. Indeed, he warned that the threat to “democratic legality” posed by the Ministry of Justice’s unwillingness to grant exceptions to the rule was potentially more serious than any juridical problems that it feared in changing the law, even though altering the statute would provide an opportunity for critics of the regime to “defame” the East German government for having

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<sup>134</sup> BArch Berlin-Lichterfelde, DO1 9742, letter from Böge, Referent, Rat des Bezirkes Magdeburg, Abteilung Innere Angelegenheiten, to Mdl, HA Innere Angelegenheiten, Betreff: Eheschließung der minderjährigen Gisela H. in Westdeutschland, March 18, 1957.

<sup>135</sup> BArch Berlin-Lichterfelde, DO1 9742, draft of letter, apparently from Böge, Rat des Bezirkes Magdeburg, Abteilung Innere Angelegenheiten, to Standesbeamten in Bad Lauterberg im Harz, November 1956.

<sup>136</sup> BArch Berlin-Lichterfelde, DO1 9742, letter from Böge, Referent, Rat des Bezirkes Magdeburg, Abteilung Innere Angelegenheiten, to Mdl, HA Innere Angelegenheiten, Betreff: Eheschließung eines Minderjährigen in Westdeutschland, November 27, 1956.

issued such a misguided provision in the first place.<sup>137</sup> Hegen was not alone in harboring reservations about the consequences of § 1 of the Marriage Ordinance; his boss, Minister of Internal Affairs Karl Maron, apparently agreed with him.<sup>138</sup> While the Ministry of Justice argued that the government should not be intimidated by citizens' threats to decamp to the FRG, Hegen found this stance to be "totally wrong," since GDR citizens were not just threatening to leave the GDR—they were actually doing so.<sup>139</sup> Ultimately, however, neither Maron nor Hegen pushed to revoke the statute.

Hilde Benjamin reminded her colleagues that allowing for the possibility of granting exemptions from the law would open up a Pandora's box of other problems. If exceptions were to be granted, what would be the minimum age of consent for exceptional cases? Did parents need to offer their consent before the state could grant someone under the age of eighteen permission to marry? If a woman under the age of eighteen married, would her parents retain legal custody of her, or would custody be transferred to her legally adult husband? If neither the husband nor the parents were granted custody of the underage bride, then these young women would have attained a path to the status of legal adulthood before turning eighteen that was effectively closed to men, very few of whom sought to marry while under the age of eighteen. In the interest of gender equality, would not the government have to create a mechanism by which

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<sup>137</sup> BArch Berlin-Lichterfelde, DO1 9742, letter from Hegen, Staatssekretär, to Karl Maron, Minister des Innern, January 24, 1957, Betr.: Eheverordnung vom 24. November 1955, 2-3 of document; Schneider has made an analogous point, but in my view she underestimates the extent to which officials worried that the new age of marital consent would antagonize young couples. Schneider, *Hausväteridylle*, 204.

<sup>138</sup> BArch Berlin-Lichterfelde, DO1 9742, letter from Hegen, Staatssekretär, to Karl Maron, Minister des Innern, January 24, 1957, Betr.: Eheverordnung vom 24. November 1955, 3 of document; BArch Berlin-Lichterfelde, DO1 9742, letter from Karl Maron, Minister des Innern, to Sorgenicht, Leiter der HA Staatliche Organe beim ZK der SED, February 2, 1957, Betr.: Eheverordnung vom 24. November 1955.

<sup>139</sup> BArch Berlin-Lichterfelde, DO1 9742, letter from Hegen, Staatssekretär, to Karl Maron, Minister des Innern, January 24, 1957, Betr.: Eheverordnung vom 24. November 1955, 3 of document.

young men could also enjoy the benefits of having the legal status of someone of the age of majority before turning eighteen? What organ of government would be responsible for issuing exceptions to § 1 of the Marriage Ordinance, and what circumstances besides premarital pregnancy might be considered valid reasons for allowing an underage prospective spouse to wed? Would the government *always* have to bend the rules for *any* underage pregnant woman who wished to get married, and if not, what reasons could be given for approving a petition in some cases while denying it in others?<sup>140</sup>

Because of these considerations, Benjamin proclaimed that

[i]t does not seem right to put an end to the educational success we have already attained just because a few people have asked us to grant exceptions to the rule. If an exception were to be allowed by the law, it would without a doubt be granted regularly as before; a request for such an exception would almost never be denied.<sup>141</sup>

Here, Benjamin was not so much defending the merits of the new law as warning against the deleterious consequences of wantonly granting exceptions. And she denied Hegen's claim that the Ministry of Justice had been oblivious to the consequences of the potential discontent that § 1 of the Marriage Ordinance could foster:

It is not true that the MdJ [Ministry of Justice] did not sufficiently consider the political ramifications of § 1 of the Marriage Ordinance. We have been monitoring them for the past year. The fact remains that to this day we have yet to find a compelling reason to alter § 1 of the Marriage Ordinance.<sup>142</sup>

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<sup>140</sup> BArch Berlin-Lichterfelde, DO1 9742, letter from Hilde Benjamin, Minister der Justiz, to Karl Maron, Minister des Innern, February 13, 1957, Betr.: § 1 der Eheverordnung, 2 of document; BArch Berlin-Lichterfelde, DP1 SE 2226, Band 3, Ministerium der Justiz, Berlin, HA Gesetzgebung, Betreff: Diskussion im Kollegium über die Analyse der Verfahren in Ehesachen, January 15, 1957, 2 of document, 270 back side of archival file.

<sup>141</sup> BArch Berlin-Lichterfelde, DO1 9742, letter from Hilde Benjamin, Minister der Justiz, to Karl Maron, Minister des Innern, February 13, 1957, Betr.: § 1 der Eheverordnung, 3 of document.

<sup>142</sup> Ibid.

Because of the indeterminate number of disgruntled couples whose appeals were rejected by regional or municipal authorities but who desisted from pursuing their grievances further with officials on the national level, Benjamin had to acknowledge that she might not be privy to the full extent of popular opposition to the new age of nubility. She was also not certain about what couples actually did after being denied permission to marry. She was aware, for instance, of a fourteen-year-old girl with no vocational training who ran the household of a twenty-one-year-old man when his mother was in the hospital and became pregnant at the age of fifteen. Benjamin empathized with the young woman's plight, but felt that instead of having the Ministry grant an exception to the minimum age of marital consent, youth services should help her avoid the potentially disadvantageous consequences that refusal of permission to marry might entail.<sup>143</sup> Benjamin thus recognized that societal expectations and familial exigencies were not yet necessarily in sync with the law's assumptions: "In any case, it does not suffice to deny a request for permission to marry by just alluding to the law without undertaking measures to lead the underage girl to the right path."<sup>144</sup>

Benjamin admitted the lack of unanimity within the Ministry of Justice's own ranks regarding the inflexible application of § 1 of the Marriage Ordinance. Kutschke, who reported directly to Benjamin, advocated lowering the age of marital consent for women to seventeen "since this was more in accordance with the previous regulation. The leap made by the Marriage Ordinance was too large."<sup>145</sup> No less an authority that

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<sup>143</sup> Ibid., 4 of document.

<sup>144</sup> Ibid., 5 of document.

<sup>145</sup> BArch Berlin-Lichterfelde, DO1 9742, letter from Hilde Benjamin, Minister der Justiz, to Karl Maron, Minister des Innern, February 13, 1957, Betr.: § 1 der Eheverordnung, Anlage: Auszug aus dem Protokoll

Heinrich Toeplitz, president of the Supreme Court, agreed with Kutschke. This did not prevent Kutschke's colleague Helmut Ostmann, however, from promptly dismissing Kutschke's recommendation:

In considering this question, one must take into account why capitalist law allowed girls to marry with the permission of their parents from the age of sixteen onwards; it was related to the status of women in marriage in a capitalist state. The equal status of the woman in a marriage, which we value so highly, plays absolutely no role in bourgeois views regarding marriage. The suggestion to grant exceptions to the rule would practically result in the lowering of the minimum age for marriage, which would violate the principle established by the Marriage Ordinance. It would be incorrect to relent and issue exceptions to the rule especially now that the petitions have been declining in number so precipitously and citizens have begun to come to terms with the regulation.<sup>146</sup>

In effect, Ostmann was echoing Benjamin's primary argument: if acceptance of the higher age of marital consent for women seemed to be gaining traction in the general populace, what would be the purpose of succumbing to allegedly reactionary demands for its retraction? Professor Hans Nathan offered a more realistic assessment by noting that there were no statistical data at hand that would provide a definitive answer to the question of popular acceptance of the law, nor was there any evidence of "whether the principles established by the law were being contradicted by existing reality." His reservations about the empirical evidence notwithstanding, Nathan felt that there was no

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über die 1. Sitzung des Kollegiums des MdJ am Donnerstag, dem 10. Januar 1957, 2, 4 of document; BArch Berlin-Lichterfelde, DP1 SE 2226, Band 3, MdJ, HA Gesetzgebung, Berlin, Betreff: Diskussion im Kollegium über die Analyse der Verfahren in Ehesachen, January 15, 1957, 3 and 5 of document, 271 and 272 of archival file.

<sup>146</sup> BArch Berlin-Lichterfelde, DOI 9742, letter from Hilde Benjamin, Minister der Justiz, to Karl Maron, Minister des Innern, February 13, 1957, Betr.: § 1 der Eheverordnung, Anlage: Auszug aus dem Protokoll über die 1. Sitzung des Kollegiums des MdJ am Donnerstag, dem 10. Januar 1957, 2 of document; BArch Berlin-Lichterfelde, DP1 SE 2226, Band 3, MdJ, Berlin, HA Gesetzgebung, Betreff: Diskussion im Kollegium über die Analyse der Verfahren in Ehesachen, January 15, 1957, 3 of document, 271 of archival file.

reason to change the age of marital consent.<sup>147</sup> By 1963, however, Nathan had changed his mind: he urged his colleagues to lower the age of nubility since “we are harming the development of young people by having it set at eighteen.” But Hilde Benjamin remained steadfast in her opposition to altering the law. Since “one can tell from the statistics that relatively few eighteen-year-olds are getting married,” she denied the existence of a pent-up demand for lowering the legal age threshold.<sup>148</sup>

Ms. Rietzsch of the SED Central Committee’s Justice Department, however, held a more unequivocally sympathetic view of those who objected to the new provision already in 1957: “It is misguided [...] to characterize people who request an exception to the rule as backward in their views. These views will be around for a long time and should be taken into consideration in legal provisions.”<sup>149</sup> Rietzsch’s candor in professing that the SED’s legal vision had leapfrogged popular attitudes did not result in a change in the law, but nonetheless constituted another instance in which a highly placed SED official questioned whether socialist jurisprudence was actually reflecting popular moral attitudes, as it was supposed to do. She also felt that the overly restrictive application of the age of marital consent was fomenting the undesirable phenomenon of *Republikflucht*; if anything, the East German government should have been doing anything that it could to staunch the exodus of East Germans to the FRG rather than knowingly encourage it through its own policy initiatives. Furthermore, Rietzsch

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<sup>147</sup> BArch Berlin-Lichterfelde, DO1 9742, letter from Hilde Benjamin, Minister der Justiz, to Karl Maron, Minister des Innern, February 13, 1957, Betr.: § 1 der Eheverordnung, Anlage: Auszug aus dem Protokoll über die 1. Sitzung des Kollegiums des MdJ am Donnerstag, dem 10. Januar 1957, 2 of document.

<sup>148</sup> BArch Berlin-Lichterfelde, DP1 VA 1243, Protokoll der 4. Sitzung des Kollegiums des MdJ am 24. Juli 1963, dated July 29, 1963, 10-11 of document, 271 back side-272 front side of archival file.

<sup>149</sup> BArch Berlin-Lichterfelde, DO1 9742, letter from Hilde Benjamin, Minister der Justiz, to Karl Maron, Minister des Innern, February 13, 1957, Betr.: § 1 der Eheverordnung, Anlage: Auszug aus dem Protokoll über die 1. Sitzung des Kollegiums des MdJ am Donnerstag, dem 10. Januar 1957, 2 of document.

believed that the Marriage Ordinance was insufficiently attuned to the need to respect the culturally specific marital customs of the Sorbian minority.<sup>150</sup>

Rietzscher's larger point was that socialist jurisprudence had to be flexible in accommodating supposedly outmoded moral views when they did not threaten the larger goal of enhancing socialist consciousness. In other words, the SED needed to pick its battles judiciously. This recommendation stemmed from her rejection of the socialist faith in environmental determinism over behavioral patterns in socialist society; for her, "[s]ocietal influence over marriage is quite illusory," even as she conceded that the DFD and FDGB might have a role.<sup>151</sup> Despite her numerous reservations about the age of marital consent, however, Rietzscher ultimately demurred by noting that an alteration of § 1 of the Marriage Ordinance was not "particularly urgent."<sup>152</sup>

Rietzscher was not alone in her criticism of the Ministry of Justice's failure to be realistic about the pace of moral evolution in East German familial life. Ewert, the editor of the GDR press agency's weekly periodical *Presse—Informationen*, felt that Ministry of Justice official Herbert Wächtler had incorrectly assumed that changes in societal attitudes were keeping pace with reforms of marriage law. Regarding an article authored by Wächtler that was to appear in the pages of *Presse—Informationen*, Ewert opined that

[t]he whole issue of children being born out of wedlock is insufficiently explained. Many citizens in our country have a false or at least unclear conception of precisely this issue. For this reason alone, one cannot merely touch

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<sup>150</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 3, MdJ, HA Gesetzgebung, Berlin, Betreff: Diskussion im Kollegium über die Analyse der Verfahren in Ehesachen, January 15, 1957, 3-4 of document, 271 front and 271 back side of archival file.

<sup>151</sup> *Ibid.*, 9 of document, 279 of archival file.

<sup>152</sup> *Ibid.*, 4 of document, 271 back side of archival file; BArch Berlin-Lichterfelde, DO1 9742, letter from Hilde Benjamin, Minister der Justiz, to Karl Maron, Minister des Innern, February 13, 1957, Betr.: § 1 der Eheverordnung, Anlage: Auszug aus dem Protokoll über die 1. Sitzung des Kollegiums des MdJ am Donnerstag, dem 10. Januar 1957, 2 of document.

upon this problem in the article, but instead one must provide a more detailed justification of why the birth of a child out of wedlock is not a moral taint [*Makel*] in our societal order—in contrast to views [about giving birth out of wedlock that exist] in a bourgeois state.<sup>153</sup>

Thus, while Ewert shared Wächtler's assumption that East German society was far more open to unwed motherhood than its West German counterpart was, he felt that there were still quite a few people in East German society who needed to be reminded of this.

Hans Einhorn, an official at the Ministry of Justice, was skeptical that the new age of nubility would remedy the problems that afflicted marriages involving young partners:

One of the main arguments for not granting exceptions to the rule is that young marriages are particularly precarious. It is illogical, however, to think that this applies only to marriages in which a seventeen-year-old girl receives permission to marry since these problems exist for young marriages in general. The reason why people are against young marriages and believe that a reasonable age is a prerequisite for a solid marriage has nothing to do with our legal regulation. If we were to assume that this was the case, then we would be overestimating the influence of the law. Given the citizenry's healthy views on this issue, there would be no danger in making it possible to grant exceptions to the rule.<sup>154</sup>

Many petitioners, whether parents or marital aspirants, had made a similar argument in their *Eingaben*, namely that they were better judges of a young person's readiness for marriage than a state functionary who inflexibly enforced the legal age of marital consent. Einhorn was providing a strong endorsement of the ability of East Germans to

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<sup>153</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 1, letter from Ewert, Chefredakteur, Presseamt beim Ministerpräsidenten, to Herbert Wächtler, MdJ, Berlin, March 14, 1956, 1 of document, 86 of archival file. The first programmatic statement that giving birth out of wedlock was not a *Makel* and should not confer legal disadvantages upon children can be found in § 17 of the 1950 Law for the Protection of Mother and Child and the Rights of Women; for a discussion of this, see BArch Berlin-Lichterfelde, DO1 14426, MdJ, Berlin, Konzeption für das FGB, ca. 1964, 2 of document.

<sup>154</sup> BArch Berlin-Lichterfelde, DO1 9742, letter from Hilde Benjamin, Minister der Justiz, to Karl Maron, Minister des Innern, February 13, 1957, Betreff: § 1 der Eheverordnung, Anlage: Auszug aus dem Protokoll über die 1. Sitzung des Kollegiums des MdJ am Donnerstag, dem 10. Januar 1957, 3-4 of document.

make judicious decisions in this regard. If the law was supposed to increase the chances that a young marriage would survive, then it should be attuned to individual circumstances rather than adhere to a dogmatic enforcement of orthodoxy.<sup>155</sup> Ultimately, Einhorn's argument that the new age of marital consent for women was not making a meaningful contribution to the stability of young marriages did not sway Benjamin's opinion. She would only be inclined to revisit the issue of amending § 1 of the Marriage Ordinance if the number of complaints were to increase.<sup>156</sup>

Even though § 1 of the Marriage Ordinance remained unchanged despite considerable popular opposition and internal dissent, a revised FGB draft that appeared in 1958 did contain a new provision, § 75, which constituted an implicit recognition on the part of Hilde Benjamin that children born out of wedlock did not in practice have the same status as their "legitimate" counterparts, even when their mothers subsequently married. Under the old law, a child born out of wedlock could only acquire her or his mother's husband's name if the husband adopted the child after marrying the child's mother. According to the proposed § 75, a child could take on the new family name with the consent of her or his mother and the mother's new husband without having to go through a formal adoption.<sup>157</sup> § 75 reflected a suggestion made in a discussion of the

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<sup>155</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 3, MdJ, HA Gesetzgebung, Berlin, Betreff: Diskussion im Kollegium über die Analyse der Verfahren in Ehesachen, January 15, 1957, 4-5 of document, 271 back side-272 of archival file.

<sup>156</sup> BArch Berlin-Lichterfelde, DO1 9742, letter from Hilde Benjamin, Minister der Justiz, to Karl Maron, Minister des Innern, February 13, 1957, Betr.: § 1 der Eheverordnung, Anlage: Auszug aus dem Protokoll über die 1. Sitzung des Kollegiums des MdJ am Donnerstag, dem 10. Januar 1957, 5 of document.

<sup>157</sup> BArch Berlin-Lichterfelde, DO1 14397, letter from Hilde Benjamin, Minister der Justiz, to Karl Maron, Minister des Innern, Betreff: Entwurf des FGB, April 22, 1958. If the child was fourteen years of age or older, then she or he would also have to consent to the name change: BArch Berlin-Lichterfelde, DO1 14398, 1958 FGB-Entwurf. § 75 actually constituted a retraction of the more "progressive" language of the 1954 FGB draft, which stipulated that since giving birth out of wedlock was no longer considered immoral, a mother and her child born out of wedlock could thus retain her last name rather than adopting the name of a new husband and (step)father; there was no mention in that FGB draft or the discussion surrounding it of

previous FGB draft in Karl-Marx-Stadt in 1954 by registry office functionaries-in-training, who had called for a name-changing provision that would signal to the outside world that a child born out of wedlock “really belong[ed] to the family” even if her or his mother’s new husband was not her or his biological father.<sup>158</sup> On the one hand, making it easier for children born out of wedlock to adopt their mother’s new family name constituted a stage in the fulfillment of the 1950 Law for the Protection of Mother and Child and the Rights of Women’s promise of equality for children born in and out of wedlock, since these children would thus be indistinguishable (at least as far as their last name was concerned) from children born into the marriage. On the other hand, the recognition that children who retained their mother’s maiden name after she married would also retain a sign of their “illegitimate” status meant that even after a mother married, her offspring born in and out of wedlock were still not seen as fundamentally equal by society at large.

Benjamin’s suggestion did not meet with universal approbation at the Ministry of Internal Affairs. An internal memo indicated discomfort with the way in which the proposed new wording of § 75, part 2 in the FGB draft echoed § 1706, part 2 of the BGB, since the latter legal provision had been drafted when children born in and out of wedlock were not yet legal equals. One official opined, “In my opinion, there is no reason to uphold a provision that under bourgeois law was primarily designed to help conceal the fact that a child had been born out of wedlock.” Another disagreed by noting that the

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the “advantage” of communicating familial unity by adopting a common last name. See BArch Berlin-Lichterfelde, DO1 14398, Bericht über die Ergebnisse der Diskussion zum Entwurf des FGB auf der Arbeitstagung im MdJ vom 19. Oktober 1954, 27 of document.

<sup>158</sup> BArch Berlin-Lichterfelde, DO1 14398, letter from Max W. to Bezirksverwaltung Karl-Marx-Stadt-Staatssekretariat für Innere Angelegenheiten, Mdl, Abt. Bevölkerungspolitik und PSW, August 18, 1954.

point of giving the child the new family name was to ensure that others would view the family as a unified entity, although this official's objection did not address the fact that the desirability of a family appearing to be a "unified entity" largely stemmed from the lingering taint of illegitimacy for family members bearing a different last name. So as to avoid singling out children born out of wedlock and reproducing the logic of illegitimacy that underpinned the similar BGB provision, the first official felt that if retained in the final version of the FGB, § 75, part 2 should also apply to children born into previous marriages for whom a spouse had primary custody.<sup>159</sup>

On the cusp of the issuance of the new FGB in 1965, the perceived need to wed when an underage female partner was pregnant remained quite widespread in the GDR even after ten years of the rigid application of § 1 of the Marriage Ordinance. The Ministry of Justice attributed the resilience of this supposedly obsolete point of view to the sense of responsibility that both partners typically felt for their as-yet-unborn child and the influence of parents of an older generation. But officials were also chagrined to admit that even though the fertility rate in the GDR actually rose (from 16.7 per 1000 in 1952 to 17.6 per 1000 in 1963), "an international comparison reveals that the desire to have children lags far behind the desire to marry in the GDR."<sup>160</sup> Despite the SED's prodigious efforts to change popular attitudes about "illegitimate" children, "many young girls still view giving birth out of wedlock as a moral taint, and they also see this view confirmed by life experience"; indeed, "[i]t seems that many young women would rather

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<sup>159</sup> BArch Berlin-Lichterfelde, DO1 14398, MdI, HA Innere Angelegenheiten, Hausmitteilung, to MdI, Rechtsabteilung (Betreff: Stellungnahme zum Entwurf des FGB und des Einführungsgesetzes zum FGB), May 19, 1958.

<sup>160</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 1, "Zu einigen Fragen der Familie in der DDR," February 4, 1965, 8 of document, 8 of archival file.

risk the prospect of divorce than giving birth to a child out of wedlock.”<sup>161</sup> But according to a report on the discussion of the 1965 FGB draft, demands for granting exceptions to eighteen as the age of marital consent supposedly “played no role in the discussion and have not been mentioned in petitions for years,” even though such requests continued to be made at least until the early to mid-1970s.<sup>162</sup>

Despite the unwillingness of many Ministry of Justice officials to admit the extent of popular discontent, the objections to § 1 of the Marriage Ordinance (codified in § 5, section 4 of the new FGB) were not without impact. § 28 of the Supplement Regarding the Implementation of the FGB stipulated for the first time that officials could grant exemptions from the rule, albeit only in “exceptional” cases. This constituted a moment in which the supposedly impermeable apparatus of East German jurisprudence apparently proved amenable to the pressures of popular and internal dissent.<sup>163</sup>

One such “exceptional” case took place in 1972, when Harald G., a member of the East German team that was to compete in the Munich Olympics, received permission to marry his fiancée Martina B. before she turned eighteen; the reason given for granting the exemption was that they had already had a child together. Preserving the reputation of an East German Olympic athlete from potentially denigratory accusations about his personal life apparently was enough of a reason to suspend the law in this instance.<sup>164</sup>

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<sup>161</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 1, “Zu einigen Fragen der Familie in der DDR,” February 4, 1965, 4 of document, 4 of archival file.

<sup>162</sup> BArch Berlin-Lichterfelde, DO1 14425, MdJ, Berlin, Grundkommission zur Ausarbeitung des FGB, Begründung der Änderungen des Entwurfs des FGB, October 6, 1965, 3 of document.

<sup>163</sup> Grandke argues that few people took advantage of the possibility of an exemption because the provision was relatively unknown and because out-of-wedlock births had become more prevalent. Grandke, “Familienrecht,” 182.

<sup>164</sup> BArch Berlin-Lichterfelde, DP1 VA 3007, Band 1.304, letter from Major Harald G., Armeesportklub Vorwärts Leipzig, Nationale Volksarmee, to MdJ, HA III, Berlin, Betr: Antrag von FrI. Martina B., July 14, 1972, 43 of archival file and letter from Wünsche, MdJ, Berlin, to Martina B., Bad Dürrenberg, July 19,

Despite this new willingness to grant occasional exceptions to the rule, however, the Ministry of Justice continued to reject calls to lower the age at which women could legally marry. And the GDR would not follow the example of Poland, which had been unique among European state-socialist polities in raising the age of marital consent for men, a reform for which there had also been popular support in East Germany.<sup>165</sup>

## **Conclusion**

In contesting the parameters of the age of marital consent, state officials and East German citizens were often speaking at cross purposes. State officials on the national level were predominantly interested in strengthening the legitimacy of the GDR's judicial system, and thus they suppressed their own inclination to jettison the new age threshold for marriage even when they harbored reservations about it and were confronted with ample evidence of popular opposition to the measure. This consensus among officials in Berlin to abide by the status quo persisted even in the face of recalcitrant local functionaries who were apparently willing to bend the rules for some women under the age of eighteen to get married. The freedom to marry could serve as a stand-in for the assertion of a larger set of freedoms against arbitrary and coercive state directives like the economic measures that had sparked the East German uprising on June 17, 1953. But this yearning for freedom had a decidedly gendered dimension. Both citizens and

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1972, 46 of archival file. If a prospective bride was deemed to be mature enough, she could now receive permission to marry her fiancé if he had a lengthy military service stint ahead of him; this had not been an officially sanctioned possibility under the Marriage Ordinance of 1955. See BArch Berlin-Lichterfelde, DP1 VA 3007, Band 1.304, letter from Lübchen, MdJ, Berlin, to Heuckendorf, BG Schwerin, June 20, 1974, 177 of archival file.

<sup>165</sup> BArch Berlin-Lichterfelde, DO1 14425, MdJ, Berlin, Grundkommission zur Ausarbeitung des FGB, Begründung des Entwurfs des FGB, March 18, 1965, 2 of document; BArch Berlin-Lichterfelde, DP1 VA 3007, Band 1.304, letter from Einhorn, MdJ, Berlin, to Ilona J., Rammenau, April 24, 1972, 8 of archival file.

officials tended to overlook the fact that while the Marriage Ordinance limited young women's access to the institution of marriage, it codified expanded access to wedlock for young men, who could now marry at the age of eighteen rather than having to wait until their twenty-first birthday. While there were some voices during the discussion of the 1954 FGB draft that called for the revocation of this change and the augmentation of the age of marital consent to twenty-five for men, these objections paled in comparison with the outcry generated by the new age of marital consent for women.

Indeed, East Germans were not hesitant to remind officials that a governmental decree did nothing to eliminate the societal and familial attitudes that continued to stigmatize unwed motherhood. And, like those who left the GDR for any number of other reasons, some of these couples were willing to vote with their feet. The government's overarching concern to enhance the birthrate and stem the exodus of East Germans to West Germany seemed to be at odds with a Marriage Ordinance that tempted at least some young East Germans to flee the GDR to take advantage of the lower age of marital consent for women in the FRG. For a party that claimed to speak on behalf of the "moral views of the working people" (*Moralanschauungen der Werktätigen*), it was not exactly welcome news for the SED to learn that its values apparently conflicted with those of many East German "working people." But perhaps even more alarming was the fact that officials at both national and local levels of government argued with varying degrees of explicitness that the new age of marital consent for women went against a code of marital norms that they shared with disgruntled members of the general population.

The desire of underage women for the freedom to marry on their own terms also served to reinforce the importance of the presence of married fathers in the lives of newborn children in the eyes of many East Germans. In most *Eingaben*, the issue was framed around an underage woman's right to marry, but the *reason* for her desire to marry was to secure a father for her child. This was certainly not unique to the GDR of the 1950s, but neither should it be read merely as an atavistic adherence to "traditional" values. The SED might have sought to remove the stigma of illegitimacy from children born out of wedlock, but it had not provided an alternative language for articulating the role of *fathers* in the lives of their non-marital children.

So what difference did a woman's marital status make when it came to the evolution of societal attitudes and public policy in both Germanies during the 1950s? Given the absence of substantive reforms in family law until 1957 at the earliest in the FRG, the salient issue for West German "women standing alone" was their ability (or inability) to negotiate the various legal and societal obstacles that they faced. But for West German governmental officials and public opinion shapers, however, the question was not how single women would adapt to an inhospitable sociopolitical landscape, but instead how an ostensibly unchanging society and government would adapt to the presence of so many unmarried West German women. In East Germany, by contrast, it was precisely the novelty of governmental attitudes and policies towards single women and mothers that supplanted the relative numerical preponderance of unmarried women and war widows as the crux of the issue of "women standing alone." In other words, the question was not how East German society would adapt to the presence of a large number of single women, but instead whether unmarried women would come to accept changing

laws and societal expectations. East German policies did not change *because* of the “surplus of women,” but the implicit perception of such a surplus certainly affected their implementation.<sup>166</sup>

In arguing for the integral role played by conjugality in forming citizens in Third Republic France, Judith Surkis has maintained that “[i]n examining the sexualization of political subjects as an ongoing process rather than as a singular event, I emphasize how instability and incoherence were part of how gender and sexual norms were both elaborated and transformed.”<sup>167</sup> An analogous process was underway during the formative years of the GDR. By providing tantalizing clues about the texture of ongoing official and popular negotiations of marital norms both old and new, and by gesturing towards the ways in which propagandistic assertions of “socialist” expectations for marital life could be accepted, disputed, and transformed, the drafters of the *Eingaben* examined in this chapter contributed to the indeterminacy and contingency that characterized the elaboration of marital norms during the formative years of the GDR. As evidenced by the remarkable durability of § 1 of the Marriage Ordinance despite its continually contested status, the instability of the ongoing “sexualization of political subjects” did not shake the normative power exerted by the SED’s expectations for marital behavior, and, following Surkis’s argument, ultimately served to strengthen them.

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<sup>166</sup> In 1950, women outnumbered men in the GDR by 2 million. See Wollé, *Aufbruch nach Utopia*, 219.

<sup>167</sup> Judith Surkis, *Sexing the Citizen: Morality and Masculinity in France, 1870-1920* (Ithaca: Cornell University Press, 2006), 7.

## CHAPTER 5. MAKING WAY FOR “WINGED EROS?” DIVORCE LAW REFORM AND MARITAL INFIDELITY IN THE 1950s

Divorce is nothing more than a declaration that a marriage has died and that its existence is little more than an illusion (*Schein*) and deception (*Trug*).” (Karl Marx)<sup>1</sup>

You have to ask yourself the question: who benefits from the preservation of a marriage that exists in name only? (Henning, Primary Spokesperson for the East German Ministry of Justice, 1963)<sup>2</sup>

Karl Marx and many East German officials agreed: it was futile to preserve a marriage that had lost its meaning for a couple. But there was also a pronounced strand in socialist thought that sought to preserve marital unions not so much for their own sake as for their societal importance. It was for this reason that Vladimir Lenin informed Clara Zetkin of his rejection of Alexandra Kollontai’s conception of nonmarital “free love” in the following terms:

“The drinking of water [a reference to Kollontai’s alleged comparison of satisfying sexual desire to quenching thirst] is really an individual matter. But it takes two people to make love, and a third person, a new life, is likely to come into being. The deed has a social complexion and constitutes a duty to the community.”<sup>3</sup>

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<sup>1</sup> BArch Berlin-Lichterfelde, DP1 SE 2227, Band 7, Rundfunkkommentar, Thema: Schutz der Ehe im sozialistischen Staat, planned for radio broadcast on September 9, 1957, quotation attributed to Karl Marx, 6 of document, 58 of archival file. The title of this chapter is inspired by “Make Way for Winged Eros,” Alexandra Kollontai’s seminal 1923 essay on sexual morality.

<sup>2</sup> BArch Berlin-Lichterfelde, DP1 SE 0417, Band E3—664-1628/63, letter from Hauptreferent Henning, Ministerium der Justiz (hereafter MdJ), Berlin, to Ingrid B., Berlin, July 4, 1963, unpaginated.

<sup>3</sup> Quotation from Blanche Wiesen Cook, “Feminism, Socialism, and Sexual Freedom: The Work and Legacy of Crystal Eastman and Alexandra Kollontai,” in *Women in Culture and Politics: A Century of Change*, eds. Judith Friedlander, Blanche Wiesen Cook, Alice Kessler-Harris, and Carroll Smith-Rosenberg (Bloomington: Indiana University Press, 1986), 358-375, here 372.

These competing visions of the “social complexion” of the marital bond were at stake when the SED codified East German divorce law in the Marriage Ordinance (*Eheverordnung*, or EheVO) of November 24, 1955. With the introduction of no-fault divorce, adultery no longer appeared in an officially sanctioned list of reasons to end a marriage—indeed, there was no longer any list at all. As in the case of the new age of marital consent for women, the Marriage Ordinance’s divorce provisions exposed the fault lines in what was supposed to be an overarching consensus regarding the tenets of socialist marital morality.

To the extent that historians have paid attention to the role of adultery in divorce proceedings, they have typically proceeded from the presumption of a sexual double standard that has been remarkably impervious to change regardless of geographical or temporal context. A woman who committed adultery was subject to particularly harsh sanctions and an indelible moral taint because she violated norms that dictated female sexual modesty, subservience to her husband, and her obligation to provide her husband with heirs whose paternity would not be in doubt. A man, by contrast, who engaged in a sexual dalliance committed a “regrettable but understandable foible” since his healthy carnal appetite demanded satisfaction by consorting with prostitutes before marriage and, if unfulfilled during marriage, by having an affair with a mistress.<sup>4</sup> The dominant

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<sup>4</sup> Anthony Giddens, *The Transformation of Intimacy: Sexuality, Love and Eroticism in Modern Societies* (Stanford, CA: Stanford University Press, 1992), 7, drawing upon Lawrence Stone, *Road to Divorce: England 1530-1987* (New York: Oxford University Press, 1990); Christina Simmons, *Making Marriage Modern: Women’s Sexuality from the Progressive Era to World War II* (New York: Oxford University Press, 2009), 8. An exception to this general rule could be found during wartime: “public opinion [during the Second World War] did not uniformly censure adulterous wives [whose husbands were away at war]. While some condemned adultery as a sign of a too-carefree life-style, others pitied women who passed their best years without their husbands and amidst the hardships of war.” Elizabeth Heineman, *What Difference Does a Husband Make? Women and Marital Status in Nazi and Postwar Germany* (Berkeley: University of California Press, 1999), 55. For their part, East German experts on sexuality typically did not dispute that

narrative presumes that this double standard began to lose purchase during the later twentieth century because of the influence of second-wave feminism and the removal of barriers to gender equality before the law in many Western societies. But feminists did not fail to notice that the growing emphasis on the importance of sexual pleasure could actually reinforce the assumption of male sexual prerogative that underpinned the double standard.<sup>5</sup>

The GDR's version of real-existing socialism was supposed to offer an alternative path for overcoming this double standard. The regime's commitment to gender equality (*Gleichberechtigung*) before the law and in terms of opportunities to participate in the workforce arguably could have provided women with the tools to overcome the surprisingly resilient remnants of the misogynistic "bourgeois" family model at home.<sup>6</sup> If one views women's resorting to the option of divorce as a sign of their ability to escape infelicitous marital arrangements, whether "bourgeois" in nature or not, then it would seem as if the SED succeeded, albeit not in the way that it would have liked. While in the late 1950s, East German women were still more likely to object to divorce requests submitted by men, from the mid-1960s onwards, the situation was reversed: the preponderance of such objections (*Gegenklagen*) in divorce cases came from husbands

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men had a stronger sexual drive than women did, but they did not consider this to be an acceptable excuse for promiscuous behavior on the part of men. To cite but one example of such thinking: Klaus Trummer, ed., *Unter vier Augen gesagt ... Fragen und Antworten über Freundschaft und Liebe*, 3rd ed. (Berlin: Verlag Neues Leben, 1968), 187.

<sup>5</sup> Simmons, *Making Marriage Modern*, 4.

<sup>6</sup> West Germany had rendered wives and husbands equal in some, but not all, aspects of marriage in a 1957 law that was the product of an arduous and contentious debate; full equality would have to wait until the 1970s. East Germany, by contrast, had mandated blanket legal equality on the basis of gender as part of the 1950 Law for the Protection of Mother and Child and the Rights of Women.

who did not agree with their wives' request for divorce.<sup>7</sup> Most observers have attributed this trend to women's increasing level of workforce participation and consequent economic autonomy.<sup>8</sup>

Lothar Mertens maintains that while the GDR fell short of its goal to meet the "world standard" in most respects, it most certainly could hold its own with the top contenders in the world when it came to its divorce rate; by the time of the fall of the Berlin Wall, only the United States, the Soviet Union, Cuba, and Great Britain surpassed the GDR in this regard.<sup>9</sup> But this observation applies only to the last two decades of the GDR's existence. From 1956 to 1966, the incidence of marital dissolution remained relatively stable at about fifteen divorces for every 100 marriages, and the absolute number of divorces continually declined during the 1950s.<sup>10</sup> By 1978, however, the rate doubled to thirty divorces for every 100 marriages and did not stop climbing until 1982, when a rate of forty divorces for every 100 marriages was reached. This increase cannot be attributed to the relatively minor decline in the marriage rate over the same period; a juxtaposition of the two statistical trajectories reveals that "[a]bout twice as many couples chose to divorce in the 1980s as in the 1960s."<sup>11</sup> Even though the increase in the GDR's divorce rate is of more recent provenance, it was already high relative to that of West

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<sup>7</sup> Lothar Mertens, *Wider die sozialistische Familiennorm: Ehescheidungen in der DDR 1950-1989* (Opladen: Westdeutscher Verlag, 1998), 41.

<sup>8</sup> Mertens, *Wider die sozialistische Familiennorm*, 78-79; Josie McLellan, *Love in the Time of Communism: Intimacy and Sexuality in the GDR* (New York: Cambridge University Press, 2011), 82.

<sup>9</sup> Mertens, *Wider die sozialistische Familiennorm*, 13, drawing upon Dagmar Meyer, "Ehescheidung in der ehemaligen DDR," *Zeitschrift für Bevölkerungswissenschaft* 17, no. 1 (1991), 33-47, here 33; Paul Betts, *Within Walls: Private Life in the German Democratic Republic* (New York: Oxford University Press, 2010), 88.

<sup>10</sup> McLellan, *Love in the Time of Communism*, 54; Mike Dennis, "Family Policy and Family Function in the German Democratic Republic," in *Social Transformation and the Family in Post-Communist Germany*, ed. Eva Kolinsky (Basingstoke: Macmillan, 1998), 37-56, here 43.

<sup>11</sup> McLellan, *Love in the Time of Communism*, 54-55, quotation from 55. Comparable figures can be found in Andrew I. Port, "Love, Lust, and Lies under Communism: Family Values and Adulterous Liaisons in Early East Germany," *Central European History* 44, no. 3 (September 2011), 478-505, here 496-497.

Germany in the 1950s. While the East German divorce rate dropped from 27.1 per 10,000 inhabitants in 1950 to 14.3 per 10,000 in 1955, the rate of marital termination in West Germany declined from 16.9 per 10,000 inhabitants in 1950 to 9.2 per 10,000 in 1955.<sup>12</sup>

Dorothee Wierling associates the pervasiveness of divorce with the weakening of “informal,” non-governmental networks, of which the family unit was one.<sup>13</sup> Observers at the time, however, offered a different explanation. In 1966, GDR jurist Leonore Ansorg explained the high East German divorce rate as an unavoidable hurdle along the path to a new familial ethos, since men and women were increasingly unwilling to abide by spouses who remained beholden to obsolete marital mores.<sup>14</sup> But already in the 1950s, some couples chose to divorce at least in part because marriage manual authors were encouraging spouses to have high expectations for marriage.<sup>15</sup> Among these

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<sup>12</sup> Friedrich-Ebert-Stiftung, ed., *Familienpolitik und Familienplanung in beiden deutschen Staaten* (Bonn-Bad Godesberg: Verlag Neue Gesellschaft, 1977), 8. By way of comparison, the divorce rate had been 8.9 per 10,000 inhabitants in Nazi Germany in 1939—a figure that West Germany came very close to matching already in 1955. Maria Höhn, “Frau im Haus, Girl im *Spiegel*: Discourse on Women in the Interregnum Period of 1945-1949 and the Question of German Identity,” *Central European History* 26, no. 1 (Winter 1993), 57-90, here 77, endnote 76.

<sup>13</sup> Ralph Jessen, “Die Gesellschaft im Staatssozialismus: Probleme einer Sozialgeschichte der DDR,” *Geschichte und Gesellschaft* 21, no. 1 (1995), 96-110, here 108, drawing upon Dorothee Wierling, “Is There an East German Identity? Aspects of Social History of the Soviet Zone/German Democratic Republic,” *Tel Aviver Jahrbuch für deutsche Geschichte* 19 (1990), 193-207, here 205.

<sup>14</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, Vermerk über die Teilnahme an den 2. Rostocker Fortbildungstagen über Probleme der Ehe- und Sexualberatung vom 16. bis 18. Oktober 1966, veranstaltet von der Arbeitsgemeinschaft (hereafter AG) Ehe und Familie in der Gesellschaft für Gesundheitsschutz, Walter Krutzsch, MdJ, Sekretariat des Ministers, Berlin, October 24, 1966, 2 of document, 99b of archival file; Betts, *Within Walls*, 108.

<sup>15</sup> Johannes Huinink and Michael Wagner, “Partnerschaft, Ehe und Familie in der DDR,” in *Kollektiv und Eigensinn: Lebensverläufe in der DDR und danach*, eds. Johannes Huinink, Karl Ulrich Mayer et al. (Berlin: Akademie-Verlag, 1995), 145-188, here 153. This development was not unique to the GDR; the British Commission on Marriage and Divorce, which met from 1951 until 1955, was one of many voices at the time that identified higher expectations—particularly regarding sexual fulfillment—as posing an increasing threat to the viability of many marriages. See Claire Langhamer, “Adultery in Post-War England,” *History Workshop Journal*, 62, no. 1 (Autumn 2006), 86-115, here 90-92; for a retrospective argument about the precariousness of predicating marital success upon sexual satisfaction, see Niklas Luhmann, *Love as Passion: The Codification of Intimacy*, trans. Jeremy Gaines and Doris L. Jones (Cambridge: Harvard University Press, 1986).

expectations was a growing emphasis that women in particular placed upon sexual fulfillment within marriage, as exemplified by their increasing willingness to cite sexual incompatibility as a rationale for divorce.<sup>16</sup>

According to Paul Betts, the proportion of couples citing sexual incommensurability as grounds for divorce tripled from 1959 to 1972.<sup>17</sup> He notes that “[w]hile some sexual history was discussed in late 1940s cases, there was a discernible move away from such questions in the 1950s. By the mid-1960s, though, a couple’s sexual life became a key part of the court hearing.” Betts attributes this phenomenon to factors that were at once transnational and specific to the GDR. One of these was the

changing nature of the East German family itself. By the 1960s the GDR family was becoming what some describe as an island of consumerism and care, as the more traditional functions of the family—production, education, and even childraising—were increasingly assumed by the state. This resulted in what has been called a “privatization of marriage,” in that marriage was being recast as a respite of comfort, intimacy, and close-knit family life.<sup>18</sup>

But the East German family was not unique in becoming “an island of consumerism and care.” What gave the “privatization of marriage” a decidedly East German cast was the way in which the SED sought to arrogate to itself certain tasks associated with raising

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<sup>16</sup> Mertens, *Wider die sozialistische Familiennorm*, 61. This also manifested itself in the increasing number of philandering wives. Whereas in 1959, men were responsible for 76 percent and women for 24 percent of instances of adultery in divorce cases, by 1978 the balance had shifted to a 58 percent share for men and a 42 percent share for women of instances of adultery. See Mertens, *Wider die sozialistische Familiennorm*, 60.

<sup>17</sup> Betts, *Within Walls*, 106-107; Dennis, “Family Policy and Family Function,” 44. Betts and Mike Dennis cite a figure of 6 percent for sexual incompatibility in 1959 divorce cases, whereas one of my sources (as noted elsewhere in this chapter) cites 4.0-4.9 percent for cases between 1959 and 1962; see BArch Berlin-Lichterfelde, DP1 SE 1491, Teil 2, Der erreichte Entwicklungsstand im Bereich der Familie und ihre fördernden und hemmenden Einflüsse auf die gesellschaftliche Weiterentwicklung, undated but perhaps from 1964, 15 of document, unpaginated archival file.

<sup>18</sup> Betts, *Within Walls*, 106-107.

and educating children, and to claim as a distinctly socialist achievement the affective bonds that advocates of companionate marriage had long touted.

Also significant for the evolution of “socialist” marriage was the emergence of an East German “cultural language” of sex. Betts opines that the rising incidence of sexual dysfunction as an inducement for divorce requests “does not denote necessarily less satisfying sex than before; instead, it registers a new language of sexual problems over the course of the 1960s, as divorce cases became a locus for women in particular to stake their broader claims about personal dissatisfaction on a range of levels.”<sup>19</sup> Betts implicitly attributes the emergence of this “new language” to a top-down process. In other words, since the state became more interested in learning about the sexual lives of its citizens during the 1960s, it provided the discursive parameters for the increasing articulation of sexual concerns by ordinary citizens. This is not incorrect, but it overlooks the bottom-up impetus for sexual discourse that emerged *before* the 1960s. Popular protest against the government’s apparent moral agnosticism regarding adultery was a significant factor in shaping an East German cultural language of sex from the mid-1950s onward.<sup>20</sup>

East Germans were responding not just to the Marriage Ordinance itself, but also to the criticism that it elicited from observers in the Federal Republic of Germany (FRG). Whatever the causes of East Germany’s high divorce rate might have been, it provided fodder for West German critics who fervently believed that “the East German government was intent upon dissolving the family in favor of collectivist institutions,

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<sup>19</sup> Betts, *Within Walls*, 107.

<sup>20</sup> In Chapter 4, I advance a complementary argument about the ways in which the new age of marital consent for men and women also enabled a multivalent “cultural language” of sex to emerge in the wake of the issuance of the Marriage Ordinance in 1955.

valorizing ideological fervor above enthusiasm for family life, and following the Bolsheviks' example by embarking upon an ill-advised liberalization of divorce law."<sup>21</sup> West German critics equated the issuance of the Marriage Ordinance with the politicization of marriage by the SED:

According to the ordinance's foreword, marriage is no longer the most intimate kind of relationship between a man and woman, but instead "a union based upon equal rights, mutual love and respect that serves the development of both spouses together and the purpose of raising children in the spirit of democracy, socialism, patriotism, and friendship between peoples." These political shibboleths make it evident that marriage [in the GDR] can only be considered under the rubric of an overall conception of politics. A marriage is only valuable if it fosters the dominant ideology and worthless if it produces children with different ideological inclinations. This is why it is possible to obtain a divorce when the marriage has lost its meaning for society—that is, when one of the spouses has "distanced himself from the dominant conception of the state and ideology." On the whole, one can discern that it has become much easier to dissolve a marriage.<sup>22</sup>

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<sup>21</sup> Robert Moeller expostulates that the oft-touted impregnability of the West German family and its status as a resolutely private domain beyond the reach of the state "embodied a critique of the ideological alternatives presented by National Socialism and East German communism." See Robert G. Moeller, "The Elephant in the Living Room: Or Why the History of Twentieth-Century Germany Should Be a Family Affair," in *Gendering Modern German History: Rewriting Historiography*, eds. Karen Hagemann and Jean H. Quataert (New York: Berghahn, 2007), 228-249, here 237-238. The Bolshevik regime in the USSR introduced the legal principle of automatic divorce at the demand of either spouse in 1917; in the wake of a traditionalist family law code draft in 1936 and a new divorce law that Stalin's regime promulgated in 1944, divorce became much more difficult and expensive to obtain as the maintenance of the nuclear family became a paramount concern of the state. See Greta Bucher, *Women, the Bureaucracy and Daily Life in Postwar Moscow, 1945-1953* (Boulder, CO: East European Monographs, 2006), 9-11; Lynn D. Wardle, "The 'Withering Away' of Marriage: Some Lessons from the Bolshevik Family Law Reforms in Russia, 1917-1926," in *The Family in the New Millennium: World Voices Supporting the "Natural" Clan*, volume 1: The Place of Family in Human Society, eds. Scott Loveless and Thomas B. Holman (Westport, CT: Praeger, 2007), 257-295, here 265; Dan Healey, *Homosexual Desire in Revolutionary Russia: The Regulation of Sexual and Gender Dissent* (Chicago: University of Chicago Press, 2001), 197; Lauren Kaminsky, "Utopian Visions of Family Life in the Stalin-Era Soviet Union," *Central European History* 44, no. 1 (March 2011), 63-91, here 70, 83-84. Beginning in 1955, however, there is evidence that Soviet courts relaxed to some degree the standards for granting divorces even though the restrictive divorce law remained unchanged until 1965. Peter Juviler, "Soviet Families," in *American and Soviet Society: A Reader in Comparative Sociology and Perception*, ed. Paul Hollander (Englewood Cliffs, NJ: Prentice-Hall, 1969), 206-212, here 208-209.

<sup>22</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 1, "Die politische Ehe," an article ostensibly from *Kraft und Licht* (1956), published by the Berliner Stadtmission in Berlin-Tempelhof (West Berlin), 2 of document, 100 back side of archival file; Maria Hagemeyer, *Zum Familienrecht in der Sowjetzone: Der "Entwurf des Familiengesetzbuches" und die "Verordnung über Eheschliessung und Eheauflösung*, 2<sup>nd</sup> ed. (Bonn: Bundesministerium für gesamtdeutsche Fragen, 1956), 15.

West German observers also accused the SED of moral bankruptcy. The East German Ministry of Justice complained that “[o]ur enemies have made use of our silence [on moral questions] to spread malicious slander such as the allegations that infidelity was no longer grounds for divorce, every man could have two wives, a married man could have his lover in his apartment until 10:00 p.m., and similarly nonsensical statements.”<sup>23</sup> Instead of mollifying moral qualms, the public discussions of the 1954 Family Law Code (*Familiengesetzbuch*, or FGB) draft might have actually exacerbated fears about the consequences of no-fault divorce. For instance, some discussion leaders echoed West German allegations when they said that “[a]dultery is no longer grounds for divorce.” This was “misleading when uttered in this unadorned fashion” (i.e., without concrete examples of what this would mean in practice) since *none* of the other previously sanctioned rationales for divorce was *necessarily* still grounds for divorce either.<sup>24</sup>

With the exception of halfhearted early attempts to create workplace kitchens and laundries, the SED went out of its way to counter such charges by demonstrating its steadfast commitment to upholding the integrity of the nuclear family.<sup>25</sup> The GDR’s divorce law required judges not only to ascertain the seriousness of the reasons for which couples sought divorce but also to make every conceivable effort to get them to reconcile (*Aussöhnungsversuch*), especially during the pre-trial hearing.<sup>26</sup> The SED was intent on

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<sup>23</sup> BArch Berlin-Lichterfelde, DO1 14398, Bericht über die Ergebnisse der Diskussion zum Entwurf des Familiengesetzbuches (hereafter FGB) auf der Arbeitstagung im MdJ, October 19, 1954, 18 of document; Harsch, *Revenge of the Domestic*, 208, drawing upon SAPMO-BArch, DY30 IV 2/13/99, Bericht ..., October 19, 1954, 469.

<sup>24</sup> BArch Berlin-Lichterfelde, DO1 14398, Bericht über die Ergebnisse der Diskussion zum Entwurf des FGB auf der Arbeitstagung im MdJ, October 19, 1954, 18 of document.

<sup>25</sup> Huinink and Wagner, “Partnerschaft, Ehe und Familie in der DDR,” 149-150.

<sup>26</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 3, “Thesen zum Eheverfahren,” conference of heads of East German Attorneys’ Collegia (*Rechtsanwaltskollegien*) on December 1-2, 1956 regarding the

refuting the charge that it revived the ready attainability of divorce that had prevailed during the early years of Bolshevik rule in the USSR, although many East Germans agreed with West German observers that “it ha[d] become easier to obtain a divorce” in the GDR.<sup>27</sup> The fact that high-level jurists within the Ministry of Justice and the Supreme Court could not agree among themselves about how readily divorce should be granted—especially when adultery and older spouses were involved—did not help to quell the rumor mill.

All too easily lost in all of this was the fact that the party frequently viewed a marriage’s “meaning for society” not exclusively in “political” terms, but instead as an extension and reflection of its meaning to family members. And while there were indeed divorces granted on ideological grounds in the GDR, far more prevalent were cases involving decidedly non-ideological instances of adultery. Also overlooked in the midst of Cold War-related tensions was the fact that the Marriage Ordinance’s stipulation of no-fault divorce was not a revolutionary reform at least when it came to relatively recent

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implementation of the November 24, 1955 Marriage Ordinance, 1 of document, 136 of archival file; Donna Harsch, “Sex, Divorce, and Women’s Waged Work: Private Lives and State Policy in the Early German Democratic Republic,” in *Gender Politics and Everyday Life in State Socialist Eastern and Central Europe*, eds. Shana Penn and Jill Massino (New York: Palgrave Macmillan, 2009), 97-113, here 108. The *Aussöhnungsversuch* was not unique to the GDR, but instead hearkened back to a nineteenth-century German legal practice anchored in the BGB and to the 1944 Soviet divorce law; see Betts, *Within Walls*, 95, 97; Schneider, *Hausväteridylle*, 245.

<sup>27</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 1, Analyse über Verfahren nach Erlass der EheVO, MdJ, Hauptabteilung (hereafter HA) Gesetzgebung, Berlin, July 28, 1956, 2 of document, 145 of archival file. From a statistical standpoint at least, divorce became easier to obtain during the decade and a half following the promulgation of the Marriage Ordinance; whereas 60 percent of East German divorce cases resulted in a divorce being granted in 1958, this percentage rose to 68 percent by 1969. Betts, *Within Walls*, 100. In Elizabeth Heineman’s estimation, East and West Germany were more similar than different when it came to the relative difficulty of obtaining a divorce: “[Despite the legal stipulation of no-fault divorce,] East German courts granted divorce reluctantly. West Germany maintained precisely the same uneasy truce in the 1950s: it declined to eliminate no-fault divorce, but would-be divorcees encountered hostile judges.” Heineman, *What Difference Does a Husband Make?*, 194. According to Andrew Port, the East German government’s abandonment of the guilt principle in favor of the ruin principle “could potentially ease divorce by eliminating the need to demonstrate fault [...] [but it also] made the termination of marriage theoretically more difficult by eliminating any absolute grounds for divorce.” Port, “Love, Lust, and Lies under Communism,” 490-491.

German jurisprudence, since the Nazi regime had introduced a version of no-fault divorce in 1938.<sup>28</sup> But it was perhaps precisely because the SED itself trumpeted the Marriage Ordinance as “new” and “socialist” that even its relatively more timeworn provisions seemed to be more novel than was actually the case.

Unlike West German observers at the time, historians have tended to be decidedly skeptical about the SED’s claims regarding the revolutionary “socialist” transformation of marital and familial life in the GDR. As Eric Weitz postulates, the SED

sought to connect the identity of the DDR not specifically to the heroic progressive tradition, but to certain values and ideas long condemned in party circles as representative of “bourgeois” culture. The SED propagated in particular a social conservatism defined by such key terms as “*Sauberkeit*” (cleanliness, moral virtue), “*Anständigkeit*” (propriety, moral rectitude), and that holy trinity, “*Ordnung, Fleiß und Sparsamkeit*” (order, diligence, and thrift). These terms stood in marked contrast to the disruptive elements of proletarian militancy that had characterized the KPD [German Communist Party] of the Weimar Republic. [...] Amid the revolutionary claims of the SED, the effort to appropriate “*Bürgerlichkeit*” [a bourgeois way of life] lent a profoundly conservative and traditional tone to DDR society, one that, especially in the 1950s, bore remarkable parallels to the tenor of West German society.<sup>29</sup>

Along similar lines, Patrick Major avers that

[i]n its sexual prudery, too, the party’s petit-bourgeois moralising struck a chord with 1950s’ reconstruction society [in the FRG], searching for security. Whether this is peculiarly German is open to debate, but it is instructive that officials felt the need to invoke secondary virtues such as cleanliness in defence of their “big idea” of socialism.”<sup>30</sup>

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<sup>28</sup> Andrew Port explicitly compares Nazi and SED divorce law policy by observing that “the 1955 reform underscored the fact that political considerations, coupled with a purported concern for the effects of divorce on society as a whole, took clear precedence over the individual concerns of those involved, just as they had under National Socialism.” Port, “Love, Lust, and Lies under Communism,” 492.

<sup>29</sup> Quotation from Eric Weitz, *Creating German Communism, 1890-1990: From Popular Protests to Socialist State* (Princeton: Princeton University Press, 1997), 372; Stefan Wolle, *Aufbruch nach Utopia: Alltag und Herrschaft in der DDR 1961-1971* (Berlin: Ch. Links Verlag, 2011), 212.

<sup>30</sup> Patrick Major, “Introduction,” in *The Workers’ and Peasants’ State: Communism and Society in East Germany under Ulbricht, 1945-71*, eds. Patrick Major and Jonathan Osmond (Manchester: Manchester

Neither Major nor Weitz has acknowledged sufficiently how state socialism could serve as a vehicle for philistine, petty-bourgeois moral scruples *and* for more “progressive” visions of a sexually fulfilling companionate marriage.

Herbert Marcuse presaged the current historiographical consensus that “[t]he praise of the monogamic family and of the joy and duty of conjugal love recalls classical ‘petty-bourgeois ideology.’”<sup>31</sup> But he also observed that “there is evidence of official and semi-official ridicule and protest [in Communist societies of such norms], and of widespread private transgression.”<sup>32</sup> The SED’s appropriation of *Bürgerlichkeit* was ultimately selective and typically cloaked in rhetoric designed to hide its non-socialist origins, and thus afforded a relatively wide berth not only for the “ridicule” and “transgression” of the party’s ostensibly petit-bourgeois values, but also for their defense by ordinary citizens.

Indeed, the SED had to defend itself against a wave of accusations that by granting judges significant leeway in determining acceptable rationales for divorce, it had ceded the ground of adjudicating socialist morality to the whim of individual judges.<sup>33</sup> Furthermore, a host of voices both within and outside of the government wondered aloud whether the GDR’s new divorce law was actually rewarding the behavior of older men, in particular, who sought to abandon aging spouses in favor of younger partners. While this phenomenon and its condemnation were certainly not unique to the GDR, the

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University Press, 2002), 1-19, here 15; Jens Gieseke, “Ulbricht’s Secret Police: The Ministry of State Security,” in Major and Osmond, eds., *The Workers’ and Peasants’ State*, 41-58, here 42.

<sup>31</sup> Herbert Marcuse, “The Principles of Communist Morality,” in *American and Soviet Society: A Reader in Comparative Sociology and Perception*, ed. Paul Hollander (Englewood Cliffs, NJ: Prentice-Hall, 1969), 46-50, here 49.

<sup>32</sup> Marcuse, “Principles of Communist Morality,” 49.

<sup>33</sup> Hagemeyer, *Zum Familienrecht in der Sowjetzone*, 14.

difficult dance of balancing “socialist” rhetoric and “bourgeois” mores resulted in some GDR-specific articulations of the midlife marital crisis and the ways in which courts responded to it. Ute Schneider has argued that existing scholarship has ignored the self-perceived victimhood of East German women of a certain age who because of divorce or the passing of their spouses had to enter the workforce during the 1950s. In doing so, they had to alter their self-conception as women—from individuals who were provided for to individuals who needed to provide for themselves.<sup>34</sup> Drawing upon *Eingaben* written by these women and their estranged spouses during the aftermath of the formal introduction of no-fault divorce in the GDR in 1955, I seek to make a decisive contribution to fill this research lacuna. In fixating on the relatively high divorce rate in the GDR, historians have tended to focus on numerical evidence at the expense of unearthing the cultural meanings assigned to marital infidelity in the GDR.

After describing key antecedents to the Marriage Ordinance in modern German divorce law, I examine the ramifications of the Marriage Ordinance for East German divorce statistics and the declining prevalence of alimony arrangements during the 1950s and 1960s. I then explore the widespread perception that the Marriage Ordinance made divorce easier to obtain. After prodding from no less influential a figure than Minister of Justice Hilde Benjamin, the Supreme Court issued a directive that was supposed to lead to a more consistent application of the law. Given the dissent among high-level jurists at the Ministry of Justice and on the Supreme Court about how to move from fault-based to no-fault divorce, however, it is not surprising that jurisprudential practice in divorce cases would be anything but uniform. This lack of uniformity in the adjudication of divorce

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<sup>34</sup> Schneider, *Hausväteridylle*, 106-107, 351.

cases only served to augment misgivings about judges' preparedness and willingness to translate the tenets of socialist morality into the practice of everyday life.<sup>35</sup> Even though socialist law was supposed to be a transparent reflection of socialist morality, Benjamin recognized that the actual process by which mores became laws was a nebulous one in need of scholarly explication.

In the meantime, however, the Ministry of Justice had to convince aggrieved spouses that the Marriage Ordinance did not in fact reward adulterers by making it easier for them to obtain a divorce, especially when those adulterers happened to be SED functionaries. It was difficult, however, for the government to convince older wives in particular that it was "on their side" when it simultaneously had to persuade them to relinquish their understanding of marriage as a lifelong source of financial support that obviated the need for workforce participation. Despite optimistic prognoses about the efficacy of attempts by brigades to resolve marital conflict, there was deeply rooted skepticism about the advisability of such forms of societal intervention from the outset. The chapter concludes by evaluating the extent to which the 1965 FGB represented a continuation of or departure from prevailing understandings of divorce case jurisprudence and socialist familial morality.

### **Legal Precedents for East German Divorce Law**

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<sup>35</sup> Donna Harsch believes that the imputation of judges' impartiality "was unfair, at least in the case of family-court judges. Family courts sat in provincial cities, surrounded by everyday life and popular opinion. By 1956, moreover, every third family-court judge was a woman. For these reasons, local judges very often decided in favor of a wife-defendant and denied a divorce petition." The Supreme Court, however, "overturned many lower-court rulings and approved the divorce." Harsch, "Sex, Divorce, and Women's Waged Work," 104-105, drawing upon Friederike Kluge, "Gedanken einer Richterin zu Artikel 48 Familiengesetz," *Neue Justiz* 4 (1949), 16-17; *Neue Justiz* 7 (1953), 57; BArch Berlin-Lichterfelde, DP1 VA 387, Bl. 130, Landesregierung Mecklenburg, Schwerin to MdJ, October 13, 1950.

During the nineteenth century, divorce in the conglomeration of German-speaking states that coalesced into the German nation in 1871 had been regulated by the General Prussian State Law (*Allgemeines Preußisches Landrecht*) of 1794 and also influenced by the French *Code civil*. The new Civil Code (*Bürgerliches Gesetzbuch*, or BGB) of 1900 allowed for divorce only in cases of mental illness or if a spouse was at fault for ruining a marriage according to the “guilt principle” (*Verschuldensprinzip*); the attribution of fault had to accord with the law’s list of acceptable grounds for divorce. This legal codification posited marriage as a private matter and did not make the dissolution of a marital bond contingent upon the meaning (or lack thereof) of a marital relationship for the state or society at large.<sup>36</sup> But since clear assignation of paternity was in society’s best interest, Paragraph (§) 1592 BGB stipulated that widows and divorced women had to wait at least ten months until they remarried so that a new husband would not be held responsible for children who had been fathered by the previous husband.<sup>37</sup>

During the Weimar era, both the Union of German Women’s Associations (*Bund deutscher Frauenvereine*, or BDF) and the KPD called for jettisoning the *Verschuldensprinzip* in favor of the “ruin principle” (*Zerrüttungsprinzip*), whereby assessing the extent of marital ruin mattered far more than determining whether a spouse had been guilty of bringing about that ruin.<sup>38</sup> In its 1938 marriage law, the National Socialist regime reformulated the *Zerrüttungsprinzip* for its own ends. It loosened the strictures on granting divorce even as it placed new emphasis on the larger societal

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<sup>36</sup> Gabriele Czarnowski, *Das kontrollierte Paar: Ehe- und Sexualpolitik im Nationalsozialismus* (Weinheim: Deutscher Studien Verlag, 1991), 79-80.

<sup>37</sup> Czarnowski, *Das kontrollierte Paar*, 68.

<sup>38</sup> Betts, *Within Walls*, 91; Anita Grandke, “Familienrecht,” in *Die Rechtsordnung der DDR: Anspruch und Wirklichkeit*, ed. Uwe-Jens Heuer (Baden-Baden: Nomos Verlagsgesellschaft, 1995), 173-209, here 183.

implications of the marital bond. As part of the regime's quest to enhance the birth rate among the racially "desirable," judges could grant divorces in cases of "premature infertility" or a spouse's "refusal to procreate." The *Zerrüttungsprinzip* (as defined by Nazi family law) dictated that if a couple had been living apart for at least three years and if their marriage "had 'irretrievably' broken down," then divorce was warranted. By 1941, 21,293 men and 6,648 women had taken advantage of this new provision to dissolve their marriages.<sup>39</sup> At the same time, however, the Nazi regime no longer recognized adultery as automatic grounds for divorce—a decisive break from the BGB's *Verschuldensprinzip*. The context in which infidelity occurred, along with juridical discretion, were paramount in determining how adultery would affect the outcome of divorce proceedings.<sup>40</sup>

Both National Socialist and SED divorce law proceeded from the principle that it was important to dissolve marriages that had lost their meaning for the larger society; National Socialist policy, however, was far more explicit as to why: because divorce could actually facilitate the fulfillment of the regime's demographic goals.<sup>41</sup> Since divorced partners would ideally remarry and provide the "people's community" (*Volksgemeinschaft*) with children that would not be born in unhappy marriages, judges under National Socialism could reduce or waive a husband's obligation to pay alimony to his former wife if he remarried and had children with a new wife. While Lisa Pine believes that the "facilitation of divorce [...] did not stem from liberalistic ideals or from

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<sup>39</sup> Lisa Pine, *Nazi Family Policy, 1933-1945* (Oxford: Berg, 1997), 18, drawing upon Gabriele Czarnowski, "'The Value of Marriage for the *Volksgemeinschaft*': Policies Towards Women and Marriage Under National Socialism," in *Fascist Italy and Nazi Germany: Comparisons and Contrasts*, ed. Richard Bessel (New York: Cambridge University Press, 1996), 94-112, here 107-108.

<sup>40</sup> Betts, *Within Walls*, 92.

<sup>41</sup> Betts, *Within Walls*, 92.

any attempt on the part of the regime to ameliorate the position of private individuals,” disgruntled spouses who found it easier to dissolve their marital bonds thanks to the Nazi reform of divorce law certainly might have perceived the regime’s intentions as such.<sup>42</sup> Indeed, the Nazi regime lifted the BGB’s ban on remarriage for adulterous spouses as part of the 1938 marriage law, and this revocation remained in effect throughout the Occupation Zone period and under SED rule as well.<sup>43</sup>

While explicitly pronatalist language would not find its way into East German divorce law, an amended version of the National Socialist espousal of the *Zerrüttungsprinzip* and its embrace of no-fault divorce did.<sup>44</sup> Ironically, no-fault divorce was thus the thread that linked Weimar-era KPD and SPD family law reform proposals, the Nazis’ 1938 marriage law, and SED policy after the issuance of the Marriage Ordinance in 1955.<sup>45</sup> The *Zerrüttungsprinzip* remained in § 48 of the Allies’ Control Council Law (*Kontrollratsgesetz*) Number 16 of February 20, 1946; the Marriage Ordinance of 1955 echoed the logic of the *Zerrüttungsprinzip* even if it no longer made use of the term.<sup>46</sup> But there was discontinuity in another aspect of divorce law: while both the Nazi marriage law and the Marriage Ordinance instituted no-fault divorce, § 42 of the *Kontrollratsgesetz* Number 16 called for fault-based divorce in an echo of the BGB’s divorce provisions.<sup>47</sup>

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<sup>42</sup> Pine, *Nazi Family Policy*, 18, drawing upon Czarnowski, “Value of Marriage,” 109.

<sup>43</sup> Schneider, *Hausväteridylle*, 214.

<sup>44</sup> Czarnowski, *Das kontrollierte Paar*, 96.

<sup>45</sup> Heineman, *What Difference Does a Husband Make?*, 194.

<sup>46</sup> Christiane Kuller, *Familienpolitik im föderativen Sozialstaat: Die Formierung eines Politikfeldes in der Bundesrepublik 1949-1975* (Munich: R. Oldenbourg Verlag, 2004), 52; Schneider, *Hausväteridylle*, 91, 238-252; Friedrich-Ebert-Stiftung, ed., *Familienpolitik und Familienplanung*, 52; Huinink and Wagner, “Partnerschaft, Ehe und Familie in der DDR,” 148.

<sup>47</sup> BArch Berlin-Lichterfelde, DP1 SE 1077, folder II-1725/51, Amtsgericht Kaltennordheim, Ra 11/50, Urteil verkündet am 27. Februar 1951. Even before the issuance of the Marriage Ordinance, many East

In its very first paragraph, the Marriage Ordinance defined marriage as

a lifelong partnership entered into by a man and a woman that is based upon equality, mutual love, mutual respect for each spouse's personal growth, and raising children in the spirit of democracy, socialism, patriotism, and friendship between peoples. [...] The workers' and farmers' power of the GDR serves to protect and strengthen the development of healthy marriages and families. A thoughtless (*leichtfertig*) attitude towards marriage contradicts the moral views of the working people.<sup>48</sup>

The legal framework for no-fault divorce was articulated in § 8 of the Marriage

Ordinance:

A marriage can only be dissolved when there are serious grounds for doing so and when a court, after a thorough investigation, has determined that the marriage has lost its meaning for the couple, for their children, and for society. In reaching this determination, however, the court must take into consideration whether a divorce would impose undue hardship upon one of the spouses and whether the well-being of the children would contravene the approval of a divorce.<sup>49</sup>

According to § 13 of the Marriage Ordinance, an ex-wife could be entitled to alimony payments, albeit only for a period of two years; policymakers considered that this interval would provide her with enough time to (re-)enter the workforce. § 14, section 1,

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German courts began observing the BGB's *Verschuldensprinzip* as a mere formality, and thus operated under a de facto no-fault divorce system; see Inga Markovits, *Gerechtigkeit in Lüritz: Wie in der DDR das Recht funktionierte* (Munich: C. H. Beck, 2006), 98; Betts, *Within Walls*, 93. According to Donna Harsch, the Nazis actually made use of a hybrid of the *Verschuldensprinzip* and the *Zerrüttungsprinzip* in their divorce trials rather than a purely fault-based or no-fault approach; see Donna Harsch, *Revenge of the Domestic: Women, the Family, and Communism in the German Democratic Republic* (Princeton and Oxford: Princeton University Press, 2007), 205; Schneider, *Hausväteridylle*, 240.

<sup>48</sup> BArch Berlin-Lichterfelde, DO1 9730, MdJ, Berlin, Verordnung über Eheschliessung und Eheauflösung, November 1, 1955, 1 of document.

<sup>49</sup> *Ibid.*, 4 of document; this point is echoed by Port, "Love, Lust, and Lies under Communism," 491. Schneider maintains that the emphasis on the need for a "thorough investigation" adhered to a precedent set by the 1944 Soviet law on divorce; Schneider, *Hausväteridylle*, 242, 243. While West German courts did not launch detailed investigations of the causes of marital ruin out of respect for couples' privacy, East German courts believed that these inquiries needed to be as extensive as possible so as to tailor the most effective forms of societal intervention to preserve whatever could be salvaged in a given marriage. See Friedrich-Ebert-Stiftung, ed., *Familienpolitik und Familienplanung*, 57-58.

however, did allow for a continuation of alimony payments beyond the two-year limit in cases of exceptional hardship.<sup>50</sup> Many aggrieved women were not happy about the fact that the state was effectively absolving husbands of their responsibility to provide financial support for ex-wives who had reached middle or advanced age and who were not willing or qualified to seek gainful employment.<sup>51</sup> Thus National Socialist and SED divorce law resulted in a similar outcome but with very different rationalizations. Under the Nazi regime, relieving husbands of the burden of long-time alimony payments was supposed to foster procreation in a new marriage. For the SED, it was intended to encourage women to enter the workforce and abandon the “bourgeois” notion of marriage as a “pension institution” (*Versorgungsanstalt*) in which the financial obligations of spouses to one another would last beyond the existence of the marriage itself.<sup>52</sup> The SED

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<sup>50</sup> BArch Berlin-Lichterfelde, DO1 9730, MdJ, Berlin, November 1, 1955, Verordnung über Eheschliessung und Eheauflösung, 5 of document; BArch Berlin-Lichterfelde, DO1 14427, MdJ, HA II, Referat Statistik, Berlin, Repräsentativerhebung zur Unterhaltszahlung des Mannes an die geschiedene Ehefrau, October 23, 1964, 1 of document; BArch Berlin-Lichterfelde, DP1 SE 3566, vols. 1-2, letter from Walter E., Schmalkalden to MdJ, Berlin, Abt. Rechtsprechung, March 28, 1962, 12 of document. A West German article maintained that the possibility of offering any alimony at all, even if only for a two-year period, was an attempt to appease the churches: BArch Berlin-Lichterfelde, DP1 SE 2226, Band 1, “Hochzeit machen: ein Spiel?,” *Kraft und Licht* 41, no. 25 (June 17, 1956) [published by the Berliner Stadtmission, Abt. Verlag “Kraft und Licht,” Berlin-Tempelhof (West Berlin)], 2 of document, 100 back side of archival file. Donna Harsch discusses the Lutheran Church’s opposition to the proposed FGB draft in 1954: Harsch, *Revenge of the Domestic*, 205-206. Rendering alimony obsolete—or at least a rare exception to the rule—was a product of both principle (ensuring gender equality) and economic exigency; see Friedrich-Ebert-Stiftung, ed., *Familienpolitik und Familienplanung*, 53-54.

<sup>51</sup> Hagemeyer, *Zum Familienrecht in der Sowjetzone*, 11. Grandke admits that principle often trumped empathy when it came to alimony decisions for ex-wives who had been financially dependent upon their husbands, but she insists that East German women came to accept the more stringent alimony provisions. Grandke, “Familienrecht,” 186-187.

<sup>52</sup> While the term *Versorgungsanstalt* stemmed from the pen of August Bebel, it was the Supreme Court (*Oberstes Gericht*, hereafter OG) that in 1950 provided the initial parry in the war against marriage as *Versorgungsanstalt* in East Germany; see Schneider, *Hausväteridylle*, 247 and Markovits, *Gerechtigkeit in Lüritz*, 107. Lothar Mertens has argued that moving beyond the model of marriage as a *Versorgungsanstalt* was a characteristic not only of the GDR, but of industrializing twentieth-century societies with rising female workforce participation rates more generally. Mertens, *Wider die sozialistische Familiennorm*, 9. This did not prevent voices from both the GDR and FRG from decrying the limitations on alimony imposed by the Marriage Ordinance; see Schneider, *Hausväteridylle*, 164. For its part, the West German Constitutional Court made a point in 1959 of affirming the ongoing validity of the principle of the “housewife marriage,” according to which women contributed their household labor and childcare to a

did not mind if husbands who were relieved of alimony payments devoted their income to new marriages and new children, but they did not make this an explicit tenet of their policy in the way that the Nazis had done.

The Marriage Ordinance did succeed in reducing the number of divorced East German women who received alimony from their ex-husbands, albeit not quite as drastically as one might expect. By 1958, 81.4 percent of divorce cases in the GDR involved no alimony payments, and this number increased to 86.1 percent by 1962. But while the percentage of ex-wives who were granted alimony for more than the two-year “grace period” declined from 6.1 percent in 1959 to 0.3 percent in 1962, the number of ex-wives receiving alimony for up to the two-year legal limit actually increased somewhat from 11.7 percent in 1958 to 13.6 percent in 1962. Despite this, the Ministry of Justice proclaimed that “[t]he notion that financial ties should be broken when a marriage must be dissolved has spread quite quickly.”<sup>53</sup>

Despite all the debate about whether divorce was easier or harder to obtain as a result of the Marriage Ordinance, the absolute number of divorces in the GDR did not change much as a result, at least in the short term: there were 25,736 divorces in East Germany in 1955 as opposed to 24,649 in 1963.<sup>54</sup> But the Ministry of Justice was still not pleased to learn that by 1963, every sixth child in the GDR had divorced parents or

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marital union while men provided a paycheck. Even though the court decreed that husbands could no longer prevent their wives from working outside the home, it failed to dispute the notion that wives who chose to enter the workforce retained full legal responsibility for all household responsibilities. Heineman, *What Difference Does a Husband Make?*, 150.

<sup>53</sup> BArch Berlin-Lichterfelde, DP1 SE 1491, Teil 2, MdJ, Berlin, Der erreichte Entwicklungsstand im Bereich der Familie und ihre fördernden und hemmenden Einflüsse auf die gesellschaftliche Weiterentwicklung, undated but circa 1964, 21 of document; BArch Berlin-Lichterfelde, DO1 14427, MdJ, HA II, Referat Statistik, Berlin, Repräsentativerhebung zur Unterhaltszahlung des Mannes an die geschiedene Ehefrau, October 23, 1964, 2 of document.

<sup>54</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 1, “Zu einigen Fragen der Familie in der DDR,” February 4, 1965, 13 of document, 13 of archival file.

had been born out of wedlock, and the number of children under the age of six who were affected by the dissolution of young marriages was also on the rise.<sup>55</sup> Adultery constituted one of the most frequently cited catalysts for divorce: between 1959 and 1962, a husband's infidelity was the cause of 18.8 to 24.4 percent of all divorces, a wife's philandering led to 7.5 to 8.1 percent of divorces granted, and cases in which both spouses had committed adultery made up 5.0 to 6.2 percent of all divorces; sexual incompatibility that did not necessarily drive spouses to other partners was the root cause in an additional 4.0 to 4.9 percent of approved divorces.<sup>56</sup>

Although the total number of divorces did not fluctuate very much during this period, even the Ministry of Justice could not ignore the fact that in some parts of the country, the proportion of divorces granted was rising relative to that of divorce requests denied after the issuance of the new statute. One urban district court (*Stadtbezirksgericht*) in particular had acquired a reputation for being ““overly willing to grant divorces”” (*scheidungsfreudig*), while elsewhere regional courts (*Bezirksgerichte*) were overturning a considerable proportion of district court (*Kreisgericht*) decisions that rejected divorce requests on the basis of what the regional courts deemed to be an incorrect or overly rigid application of the tenets of the Marriage Ordinance: “Such discrepancies in juridical practice serve neither to make legal decisions more reliably

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<sup>55</sup> Ibid., 17 of document, 17 of archival file.

<sup>56</sup> BArch Berlin-Lichterfelde, DP1 SE 1491, Teil 2, Der erreichte Entwicklungsstand im Bereich der Familie und ihre fördernden und hemmenden Einflüsse auf die gesellschaftliche Weiterentwicklung, undated but perhaps from 1964, 15 of document, unpaginated archival file. Among the most common non-adultery-related causes of marital dissolution were a husband's excessive alcohol consumption (10.6 to 11.8 percent between 1959 and 1962) and “other causes” (21.3 to 37.2 percent between 1959 and 1962).

uniform (*Rechtssicherheit*) nor to foster the development of unitary views regarding the essence of marriage in a socialist state.”<sup>57</sup>

Citizens did not hesitate to let the government know when they believed that judges were not adhering to the Marriage Ordinance’s injunction to prioritize the preservation of troubled marriages. As late as 1963, divorce case defendant Harry S. wondered whether it was really as easy to obtain a divorce in the GDR as the West German propagandists said that it was. He had, after all, done nothing to ruin his marriage, and yet the Bitterfeld District Court granted his wife Liselotte S.’s request for divorce over his objections:

I cannot understand the principles that guided the court’s decision, since I am aware that our government, following the spirit of socialism, is of the opinion that it is more important to uphold marriages than to dissolve them. [Our government] also decisively refutes the view that under socialism divorces are granted as if on an assembly line. I made this viewpoint my own and defended it vigorously whenever I heard an opinion to the contrary. Now that this decision has been issued, should I simply adopt “another opinion” and throw my own overboard? This is one thing I cannot bring myself to do!<sup>58</sup>

In Harry S.’s estimation, allowing “unfounded accusations” to replace “real reasons for granting a divorce will only serve to increase the desire for divorce [*Scheidungslust*] of such people in the future and thus do a disservice to our state.”<sup>59</sup> While he was far from a disinterested observer of his own divorce case, Harry S. cast his concern for his personal fate as part of his solicitude for the fate of the reputation of East German socialist

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<sup>57</sup> BArch Berlin-Lichterfelde, DP1 SE 2227, Band 6, MdJ, Berlin, Analyse (regarding the implementation of the Marriage Ordinance’s divorce provisions), undated but presumably from 1957, 1 and 2 of document, 128 front side and back side of archival file.

<sup>58</sup> BArch Berlin-Lichterfelde, DP1 SE 0415, letter from Harry S., Sandersdorf to MdJ, Berlin, March 26, 1963, 2 of document.

<sup>59</sup> Ibid., 5 of document.

jurisprudence. From his standpoint, the Bitterfeld District Court was providing additional fodder for the hostile West German propaganda apparatus. This kind of criticism was bound to attract the attention of Ministry of Justice officials. Given the courts' role as educators and not simply as enforcers of socialist familial morality, uneven implementation of the principles of the Marriage Ordinance called into question not only the reliability of East German jurisprudence, but also the uniformity of socialist moral principles. Judicial practice was, after all, supposed to reflect and shape the "moral views of the working people" (*Moralanschauungen der Werktätigen*).<sup>60</sup>

Long before Harry S. expressed his concerns, Minister of Justice Hilde Benjamin had recognized the inconsistent application of the Marriage Ordinance's divorce provisions and called upon the Supreme Court to provide clarity. She was aware that some courts continued to rely upon the *Verschuldensprinzip* despite the introduction of no-fault divorce and made the issue of *Zumutbarkeit* (i.e., whether a wife could be reasonably expected to handle the financial repercussions of a divorce) rather than the degree of marital ruin the primary basis for their decisions in divorce cases. While § 8 of the Marriage Ordinance stipulated that judges were to take both factors into account, the latter consideration was always to take precedence over the former. Benjamin acknowledged that moving from the list of rationales for divorce (*absolute Scheidungsgründe*) in § 41 of the *Kontrollratsgesetz* to a more holistic inquiry into the

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<sup>60</sup> Schneider, *Hausväteridylle*, 347-348.

state of a marriage as stipulated by the Marriage Ordinance “has caused particular difficulties for the courts.”<sup>61</sup>

The Ministry of Justice had already issued a directive of its own regarding divorce trial procedure on February 7, 1956, but Benjamin felt that it was not sufficient to remedy the problem.<sup>62</sup> The Supreme Court shared Benjamin’s concern that lower-level courts all too often did not conduct thorough investigations in divorce cases and thus were effectively rubber-stamping spouses’ allegations of “serious” grounds for divorce without determining how serious they really were.<sup>63</sup> For this reason, the Supreme Court’s Directive Number 9 of 1957 exhorted judges not to make their decisions in divorce cases solely on the basis of the conduct of a wayward spouse, but instead to consider that conduct as part of a more comprehensive investigation that took into account the interests of the couple, the couple’s family, and society at large. The Supreme Court thus did its part to quell the perception that East German courts were all too ready to grant divorce requests.<sup>64</sup>

In one respect, however, Benjamin’s stance on divorce law was more lenient than that of the Supreme Court. Benjamin believed that courts should preserve a marriage threatened by adultery if there were underage children born to the married couple and the

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<sup>61</sup> BArch Berlin-Lichterfelde, DP1 SE 2227, Band 6, letter from Hilde Benjamin, Minister der Justiz, to OG, May 16, 1957, Betreff: Entwurf eines Antrages auf Erlaß einer Richtlinie des Plenums des OG der DDR über Eheauflösung und das Verfahren in Ehesachen, 2 of document, 2 of archival file.

<sup>62</sup> Ibid., 10 of document, 10 of archival file. Even before the Marriage Ordinance went into effect, judges’ insufficient grasp of divorce trial protocol had already been a concern for Ministry of Justice officials; in 1952, FGB reform commission members drafted an extensive delineation of divorce case procedure to assist them; see Schneider, *Hausväteridylle*, 244.

<sup>63</sup> BArch Berlin-Lichterfelde, DP1 SE 2227, Band 6, letter from Hilde Benjamin, Minister der Justiz, to OG, May 16, 1957, Betreff: Entwurf eines Antrages auf Erlaß einer Richtlinie des Plenums des OG der DDR über Eheauflösung und das Verfahren in Ehesachen, 14 of document, 14 of archival file.

<sup>64</sup> BArch Berlin-Lichterfelde, DP1 SE 3566, vols. 1-2, Abschrift: BG Gera, III. Senat, III BF 101/61, F 187/61, March 5, 1962 appeals court decision overturning KG Pöbneck’s decision, which had granted Joachim S.’s divorce request, 4 of document, 9 of section of archival file; Harsch, *Revenge of the Domestic*, 220-221; Port, “Love, Lust, and Lies under Communism,” 491, fn 42.

non-adulterous spouse remained committed to the marriage. But if the adulterous spouse's marriage-like relationship (*eheähnliches Verhältnis*) had produced any children, then perhaps a divorce would be warranted after all, especially if the marriage had produced no children or if the marital children were already adults.<sup>65</sup> The Supreme Court tempered Benjamin's stance in its Directive Number 9, which decreed that divorce was only warranted when a spouse had children with someone other than his or her spouse *and* the extramarital affair was serious and could be expected to lead to marriage. Otherwise, the Supreme Court opined, the interests of the children born within the existing marriage had to come first.<sup>66</sup>

When it came to divorce cases prompted by a short-lived adulterous fling, the Supreme Court's Directive Number 9 dictated that such a relationship was not sufficient grounds on its own to split up a marriage of long standing that was otherwise problem-free.<sup>67</sup> The court was not condoning male infidelity as a peccadillo, as "bourgeois" mores allegedly would have done, but instead called upon spouses to forgive one another for what it deemed to be relatively minor marital transgressions. In effect, however, the

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<sup>65</sup> BArch Berlin-Lichterfelde, DP1 SE 2227, Band 6, letter from Hilde Benjamin, Minister der Justiz, to OG, May 16, 1957, Betreff: Entwurf eines Antrages auf Erlaß einer Richtlinie des Plenums des Obersten Gerichts der Deutschen Demokratischen Republik über Eheauflösung und das Verfahren in Ehesachen, 5 and 8 of document, 5 and 8 of archival file. This logic was potentially of Soviet origin. In the wake of the new 1944 Soviet divorce law, which called for "serious grounds" to be presented as a justification for divorce, courts in the USSR "were inclined to grant divorces if the unfaithful partner had actually set up a new de facto partnership and if a child had been born to it." See Kaminsky, "Utopian Visions of Family Life," 85-86, quoting from Sheila Fitzpatrick, *Tear Off the Masks! Identity and Imposture in Twentieth-Century Russia* (Princeton: Princeton University Press, 2005), 256-258. The rationale in the USSR was that these serious extramarital affairs had had the status of unregistered partnerships under the previously valid divorce law; even though unregistered partnerships were no longer considered to be legally equivalent to marriages as per the 1944 law, in practice courts continued to grant them de facto legal recognition even after 1944, according to Kaminsky.

<sup>66</sup> BArch Berlin-Lichterfelde, DP1 SE 2227, Band 6, MdJ, Berlin, Helmut Ostmann, "Die Richtlinie Nr. 9 des Obersten Gerichts," August 21, 1957, 14 of document, 122 of archival file.

<sup>67</sup> BArch Berlin-Lichterfelde, DP1 SE 2227, Band 6, Richtlinie des Plenums des Obersten Gerichts der Deutschen Demokratischen Republik über die Voraussetzungen der Ehescheidung nach § 8 der Eheverordnung vom 24. November 1955: Richtlinie Nr. 9 vom 1. Juli 1957, 5 of document, 55 of archival file.

directive was positing the inverse of the old *Verschuldensprinzip*. Instead of using the determination of guilt as a way to assign blame for the ruin of a marriage and issue a divorce ruling accordingly, guilt was a reason *not* to grant a divorce for a spouse whose adulterous lapse (*Fehltritt*) was relatively inconsequential and whose marriage had thus not yet lost its meaning for the couple, the couple's children, or society.

Like the new age of marital consent, no-fault divorce did not go unnoticed in the orchestrated public discussions of the FGB draft in 1954. Indeed, Donna Harsch has maintained that “[n]o provision provoked as much contention [...] as the revision of divorce law and, especially, the elimination of the guilt principle or any absolute grounds for divorce.”<sup>68</sup> Older women in particular who were afraid that younger women would break up their marriages by seducing their husbands were particularly ardent proponents of retaining the *Verschuldensprinzip* and an itemized list of rationales for divorce that would include adultery. Some even advocated maintaining the status of adultery as an offense liable to criminal prosecution (§ 179 of the Penal Code) and increasing the maximum prison sentence to thirty years.<sup>69</sup>

The Ministry was certainly critical of the “outmoded attitudes” that led these older women to believe that they were entitled to perpetual financial support from their

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<sup>68</sup> Harsch, *Revenge of the Domestic*, 208. Harsch believes that “[t]he emotions roused by the proposed reforms seems odd. The breakup of ‘older’ marriages comprised, at most, 15 percent of a relatively low and declining divorce rate in 1954. Considered in a gendered context, however, the anxiety of older wives does not look irrational. East German women still felt strongly that a husband enhanced their status.” Harsch, “Sex, Divorce, and Women’s Waged Work,” 102-103 (quotation from 103).

<sup>69</sup> BArch Berlin-Lichterfelde, DO1 14398, Bericht über die Ergebnisse der Diskussion zum Entwurf des FGB auf der Arbeitstagung im MdJ, October 19, 1954, 18 of document; Harsch, *Revenge of the Domestic*, 208, drawing upon SAPMO-BArch, DY30 IV 2/13/99, Bericht ..., October 19, 1954, 467, 469, 471; Schneider, *Hausväteridylle*, 249, 252; Port, “Love, Lust, and Lies under Communism,” 491. These East German women were in good company in demanding the criminalization of marital infidelity; no less an authority than the Archbishop of Canterbury wondered in 1959 whether penal sanctions would be necessary to stem what he viewed as a “tide of adultery.” See Langhamer, “Adultery in Post-War England,” 99.

husbands. But equally “outmoded” were the “moral views” that led spouses—and especially husbands—to believe that they could be philanderers without consequence.<sup>70</sup> The impulse to condemn both the adulterous husband and the covetous wife is but one example of why historians would do well to avoid describing the SED’s attitudes towards marital infractions as either wholly “petty-bourgeois” or “progressive.” The Ministry of Justice insisted that courts could exert moral judgment without making a divorce contingent upon the guilt or fault of a particular spouse.<sup>71</sup> The primary way to go about doing this was to

find a way for judges to satisfy the populace’s desire for the moral condemnation of adultery and to exert an educational influence over bad spouses. When questioning witnesses to determine whether a marriage had lost its meaning for the couple, their children, and for society at large, we must of course identify and reprimand the spouse who flagrantly violated the expectations of society as far as mutual love and respect [in a marriage] are concerned.<sup>72</sup>

In other words, the courts were not supposed to ascertain “blame” or “fault” in order to grant a divorce, but this should not stop them from castigating blameworthy spouses, both for the sake of upholding the moral character of socialist jurisprudence and of addressing the emotional needs of wronged spouses. Since “[t]he concordance of morality and law must be upheld in divorce trials no matter what,”

[t]he populace is right to resist the notion that our democratic courts would adopt an indifferent attitude towards moral infractions in marriages—even though the notion [that this would occur] is an erroneous one. The appearance that thoughtless attitudes [towards marriage] are tolerated [by the courts] would be

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<sup>70</sup> BArch Berlin-Lichterfelde, DO1 14398, Bericht über die Ergebnisse der Diskussion zum Entwurf des FGB auf der Arbeitstagung im MdJ, October 19, 1954, 19 of document.

<sup>71</sup> Ibid.

<sup>72</sup> Ibid., 20 of document.

worse than if the word “guilt” were to appear occasionally in divorce case decisions.<sup>73</sup>

Given that preserving the courts’ reputation as upholders of marital integrity was of the utmost importance, the author of the Ministry of Justice’s report on the discussion of the FGB draft admitted that it might sometimes be necessary to retain the *Verschuldensprinzip* at least rhetorically, if not in a legally binding way, by assigning guilt or blame to a particular spouse for the dissolution of a marriage.

Despite this widespread reluctance to abandon the *Verschuldensprinzip*, the Ministry of Justice report author purported that the proposed Family Law Code had met with the populace’s “joyous agreement,” which drowned out the relatively few negative voices. This virtual unanimity allegedly demonstrated “the meaninglessness of the Western agitation against our divorce law” that was attempting to turn popular opinion within the GDR against the proposed reforms.<sup>74</sup> Despite this propagandistic whitewashing, the report author also claimed that she or he did not want to ignore or minimize the importance of domestic objections and concerns because of his/her conviction that “[t]he courts can only fulfill the lofty educational responsibilities imparted to them by the new family law if they are aware of the state of the populace’s consciousness and—as the judges’ conferences revealed—if they are willing to recognize and overcome weaknesses in their own level of consciousness (*Bewußtsein*).”<sup>75</sup> As the substance if not the generally upbeat tone of this report revealed, the process of

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<sup>73</sup> Ibid., 20 of document.

<sup>74</sup> BArch Berlin-Lichterfelde, DO1 14398, Bericht über die Ergebnisse der Diskussion zum Entwurf des FGB auf der Arbeitstagung im MdJ, October 19, 1954, Anlage: Vorschlag zur Behandlung des Scheidungsrechts, 3 of document.

<sup>75</sup> BArch Berlin-Lichterfelde, DO1 14398, Bericht über die Ergebnisse der Diskussion zum Entwurf des FGB auf der Arbeitstagung im MdJ, October 19, 1954, 32 of document.

overcoming these deficiencies in “consciousness” would prove to be an uphill battle—for both “ordinary” citizens and a good number of judges alike.

Even some East Germans who supported the FGB draft did not do so for the right reasons, in the Ministry’s estimation, such as those who welcomed the prospect of “‘making getting a divorce easier’ since this would help younger women find husbands given the deficit of men (*Männermangel*)!”<sup>76</sup> This constituted a small, but significant, acknowledgment that the SED had not entirely silenced discussion of the “problem” of “women standing alone” in the GDR, even if discussion of the issue was more muted and circumscribed than in the FRG.<sup>77</sup> Benjamin herself felt compelled to explain in a *Neue Justiz* (*New Justice*) article that “the problems that single women experienced in trying to find husbands could not be solved at the expense of existing marriages.”<sup>78</sup>

Benjamin was thereby echoing the Ministry of Justice’s official stance that the new divorce law would strengthen families since it reflected “the moral views and expectations of the vast majority of the population not only of the German Democratic Republic, but of Germany as a whole.”<sup>79</sup> Even as the SED was preparing to differentiate its family law from that of the FRG, it was still doing so on behalf of all Germans, and not just on behalf of the “workers and peasants” who constituted the vanguard of the East German polity. Introducing fundamental reforms in family law was yet another way in

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<sup>76</sup> Ibid., 19 of document; Harsch, *Revenge of the Domestic*, 209, drawing upon SAPMO-BArch, DY30 IV 2/13/99, Bericht ..., October 19, 1954, 47; DP1 VA 1, 1954-55, 1923, Bericht ..., October 19, 1954, 16-17.

<sup>77</sup> Elizabeth Heineman has argued that this “problem” was extensively discussed in the FRG but completely ignored in the GDR; see Heineman, *What Difference Does a Husband Make?*, xiv. For more on Heineman’s argument, see Chapter 4.

<sup>78</sup> BArch Berlin-Lichterfelde, DO1 14398, Bericht über die Ergebnisse der Diskussion zum Entwurf des FGB auf der Arbeitstagung im MdJ, October 19, 1954, 19 of document.

<sup>79</sup> BArch Berlin-Lichterfelde, DO1 14398, Bericht über die Ergebnisse der Diskussion zum Entwurf des FGB auf der Arbeitstagung im MdJ, October 19, 1954, Anlage: Vorschlag zur Behandlung des Scheidungsrechts, 4 of document.

which the GDR tried to prove itself to be the “better Germany,” and it hoped that despite the pervasiveness of Cold War propaganda, West German citizens would also come to hold this view.

There was also a pragmatic dimension to the new divorce law, which would “help make marriage and family life a source of pleasure in and enthusiasm for gainful employment” and, by extension, ensure the success of “our fight for freedom as a nation.”<sup>80</sup> Such assertions regarding the primacy of workplace identity as well as the link between the strengthening of family life and national self-assertion would seem to confirm the imputed primacy of work and of politics in the GDR, especially given the concern of East German authorities in the 1950s to ensure a sufficiently robust and committed workforce while the border with West Germany was still quite porous prior to the construction of the Berlin Wall in 1961. Such concerns could take precedence over the need for socialist jurisprudence to provide moral condemnation of adultery, as in the case of a young couple whose wish for a divorce was granted so as to ensure their energy and enthusiasm for building socialism even though they had both engaged in extramarital affairs:

It is not in the interest of our society to wear people down by preserving ruined marriages and thus inhibiting and curbing their enthusiasm for work. The dissolution of these young people’s marriage will allow both of them to build a new life. After clearing things up (*klare Verhältnisse*), they will be without emotional burdens and thus able to devote themselves to their work and to the building of socialism in our state.<sup>81</sup>

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<sup>80</sup> BArch Berlin-Lichterfelde, DO1 14398, letter from Unterabteilungsleiter Muth, Staatssekretariat für Innere Angelegenheiten, Abt. Bevölkerungspolitik, to MdJ, Berlin, Anhang: Begründung zum Entwurf des FGB, September 21, 1954, 58 of document.

<sup>81</sup> BArch Berlin-Lichterfelde, DP1 SE 2227, Band 6, letter from [inscrutable name], Hauptinstrukteur i.V. des Leiters der Justizverwaltungsstelle (hereafter JVSt) Rostock, to Minister der Justiz Hilde Benjamin, October 15, 1957, 3 of document, 171 of archival file.

Despite instances like this one in which guilt or blame seemed to play no role at all in the decision to grant a divorce, the author of the 1954 report on the discussion of the FGB draft proved to be prophetic about the resilience of the guilt principle in divorce cases. Some courts, like the Eisleben District Court, still relied upon the *Verschuldensprinzip* as long as one year after the promulgation of the Marriage Ordinance.<sup>82</sup> Indeed, some judges' decisions left the impression of the existence of an unwritten marital penal code (*Ehestrafrecht*) that itemized the infractions for which a divorce would *not* be granted—effectively an inversion of the old marriage law's listing of the reasons for which a divorce *could* be approved.<sup>83</sup> This is not terribly surprising, since the Marriage Ordinance actually contained remnants of the *Verschuldensprinzip* in its own provisions. For instance, if a woman was found to be at fault in the ruin of a marriage, then her request for alimony could be denied on this basis, according to § 18 of the Marriage Ordinance.<sup>84</sup> While her guilt would not be the primary factor in deciding whether or not the divorce was granted, the court could wield its financial cudgel to penalize her for her marital transgressions. From her standpoint, the determination of her guilt would still exert a decisive influence over the outcome of her divorce trial. And whether a request for a divorce was approved or not, the spouse who was found to be

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<sup>82</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 2, letter from Jahn, JVSt Halle/Saale, to MdJ, HA II, Berlin, Betreff: Überprüfung der Ehesachen für die zu erstattende Analyse über die Eheverfahren in der Deutschen Demokratischen Republik von Hauptinstrukteur Knecht und Oberinstrukteur Barwinsky, December 1, 1956, 5 of document, 92 of archival file.

<sup>83</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 2, MdJ, Berlin, Bericht über die vom Bezirksgericht (hereafter BG) Halle/Saale durchgeführte Stützpunktbesprechungen, November 7, 1956, 8 of document, 128 of archival file.

<sup>84</sup> *Ibid.*, 10 of document, 130 of archival file.

primarily responsible for the ruin of a marriage could be made to bear the majority or all of the court costs associated with a trial.<sup>85</sup>

Adherence to the *Verschuldensprinzip* might also have been a reaction to the fact that “[w]ith the elimination of specifically enumerated reasons for granting a divorce, the justifications given for court decisions take on new meaning.”<sup>86</sup> This “new meaning” derived from the overriding educational purpose of socialist jurisprudence. But it also meant that since the details of divorce case rulings now depended more on judges’ discretion than ever before, they were subjected to much closer scrutiny on the part of judicial administrators and divorce litigants alike.<sup>87</sup> All of this was taking place not long after the ferment of denazification in the legal profession during the Occupation Zone period, when many *Volksrichter* (people’s judges) had entered the profession with a minimal amount of training.<sup>88</sup> This dearth of professional experience on the part of *Volksrichter* might have made them even more vulnerable to accusations by defendants and plaintiffs that they were enforcing their own moral standards rather than socialist ones, particularly in cases involving adultery.

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<sup>85</sup> BArch Berlin-Lichterfelde, DP1 VA 1335, Band 2, letter from Hauptreferent Herbert Wächtler, MdJ, HA Gesetzgebung, Berlin, to Karl Schlott, Auerbach/Vogtland, August 20, 1957, 139 of archival file.

<sup>86</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 1, Anweisung für die Durchführung des Eheverfahrens nach Erlass der Verordnung über Eheschliessung und Eheauflösung vom 24. November 1955, von Minister der Justiz Hilde Benjamin an alle Leiter der Justizverwaltungsstellen, Direktoren der Bezirksgerichte und Direktoren der Kreisgerichte, undated, 3 of document, 60 of archival file.

<sup>87</sup> As Paul Betts has noted, “In a very real sense, these courts were understood as tribunes of moral education, and the judges as front-line social workers. Just as the priest or pastor emerged as the key social player in mediating the intimate domestic life of couples in the late nineteenth century, to be replaced by the family doctor in the Nazi period, judges and social workers assumed this function in the GDR. The code’s ambiguous language granted a good deal of discretion to judges, whose decisions often varied considerably.” See Betts, *Within Walls*, 96.

<sup>88</sup> Hermann Wentker, “Justiz und Politik in der DDR,” in *Bilanz und Perspektiven der DDR-Forschung*, eds. Rainer Eppelmann, Bernd Faulenbach, and Ulrich Mähler (Paderborn: Schöningh, 2003), 126-132, here 129; Hagemeyer, *Zum Familienrecht in der Sowjetzone*, 7, 16-17.

Even before the government promulgated the Marriage Ordinance, the author of the Ministry of Justice report on the 1954 FGB discussion harbored reservations about the readiness of East German judges to implement its provisions:

[w]hat is truly novel about the new divorce law is that it gives judges much greater leeway, but also more responsibility and the task of educating couples when deciding cases. [...] If the judges had recognized the full significance of the new demands placed upon them by the law, then their discussions [at judges' conferences] would have proceeded differently. They would not, for instance, have felt it necessary to ask the unnecessary question of whether the new law made getting a divorce easier or harder, nor would they have grappled with terms like the blame principle (*Verschuldensprinzip*) and ruin principle (*Zerrüttungsprinzip*).<sup>89</sup>

A particularly recalcitrant group of judges of Magdeburg went so far as to call for the retention of the *Verschuldensprinzip* in the new East German family law.<sup>90</sup> While the question of whether the new provisions would make getting a divorce easier or harder was at the forefront of potential divorcees' concerns, the Ministry of Justice did not think that this should have also been the case for judges. The Ministry thus naïvely ignored the fact that the judges would be contending on an everyday basis with the popular perception that divorce had become easier to obtain.

Concern about judges' ability to fulfill their responsibilities did not abate once the Marriage Ordinance went into effect. As the GDR's Supreme Court noted in 1957:

The implementation of the law effectively depends on a judge's societal and moral knowledge and sets high expectations for his socialist consciousness and life experience. If a judge is not clear about the meaning of marriage for our social order, and if he does not approach divorce cases with the requisite firmness

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<sup>89</sup> BArch Berlin-Lichterfelde, DO1 14398, Bericht über die Ergebnisse der Diskussion zum Entwurf des FGB auf der Arbeitstagung im MdJ, October 19, 1954, 17 of document.

<sup>90</sup> Ibid., 16 of document.

of character, then he will not be able to issue decisions that meet the demands of Article 30 of the Constitution and the Preamble of the Marriage Ordinance.<sup>91</sup>

The Ministry of Justice expected judges to be conversant with the tenets of socialist morality. Given the contested nature of this moral codex, however, providing judges with such expansive interpretive power—and linking that interpretive power not only to supposedly objective criteria such as the degree of socialist consciousness but also to decidedly more subjective criteria such as character and moral knowledge—made them all the more vulnerable to popular challenges to their rulings in divorce cases regarding the moral valence of adultery.

An important criterion for assessing the educational efficacy of socialist jurisprudence was the maturity of the judges who administered it.<sup>92</sup> The three judges in the family court of Berlin-Treptow, for instance, were young and thus deemed to have a limited amount of life experience. One of them, Judge Narr, was “not even married,” and thus presumably less qualified than her married peers to be a credible espouser of socialist expectations regarding marriage.<sup>93</sup> Indeed, the Magistrate of Greater Berlin’s legal department questioned Judge Narr’s suitability as a family court judge not only because of her single status, but also because “by her own admission [she] sometimes was at a loss for words during divorce cases because she could not understand the problems at hand.” In the Magistrate’s judgment, she and her colleague Judge Brumme

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<sup>91</sup> BArch Berlin-Lichterfelde, DP1 SE 2227, Band 6, MdJ, Berlin, Helmut Ostmann, “Die Richtlinie Nr. 9 des Obersten Gerichts,” August 21, 1957, 3 of document, 111 of archival file.

<sup>92</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 3, MdJ, Berlin, Notizen zur Diskussion im Kollegium über die Analyse des Eheverfahrens, January 11, 1957, 3, 6 of document, 266, 267 back side of archival file.

<sup>93</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 3, Überprüfung der Eheverfahren im Stadtbezirksgericht Treptow, Magistrat von Groß-Berlin, Abteilung Justiz, Hauptreferat Recht, November 23, 1956, 1 of document, 1 of archival file.

had enough practical, if not life, experience, and thus could have done a much better job of carrying out their professional duties.<sup>94</sup>

The Marriage Ordinance's stipulation of no-fault divorce did not prevent Judge Narr from improperly granting at least one mutually consensual divorce (*einverständliche Ehescheidung*) in which the parties had agreed in advance upon who was at "fault" for the demise of their marriage.<sup>95</sup> The Ministry believed that the introduction of no-fault divorce would be quite popular because under the previously valid *Verschuldensprinzip*, divorcing couples sometimes had to devise a spurious rationale that might have accorded with the letter of the law but did not necessarily reflect the actual reason for the ruin of a marital relationship.<sup>96</sup> In principle at least, couples would no longer have to reach a disingenuous agreement about the "guilty" party in order to improve their chances of getting a divorce. But Judge Narr apparently accepted a couple's assignation of "guilt" on face value, and thus did not fulfill her responsibility to conduct her own investigation into the state of the marriage. She went so far as to counsel a spouse to "admit to something" so as to make it "easier to grant a divorce," thereby violating the Ministry of Justice's injunction to privilege the preservation of marriages over their termination whenever possible.<sup>97</sup>

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<sup>94</sup> Ibid., 7 of document, 4 of archival file.

<sup>95</sup> Ibid., 3 of document, 2 of archival file.

<sup>96</sup> BArch Berlin-Lichterfelde, DO1 14398, Bericht über die Ergebnisse der Diskussion zum Entwurf des FGB auf der Arbeitstagung im MdJ, October 19, 1954, 17 of document. With its embrace of the *Zerrüttungsprinzip* and rejection of the *Verschuldensprinzip*, the FRG also sought to put an end to the phenomenon of divorces agreed upon in advance (*einverständliche Ehescheidungen*); see Friedrich-Ebert-Stiftung, ed., *Familienpolitik und Familienplanung*, 54. Mutually agreed upon divorce had been part of nineteenth-century Prussian divorce law, but not of the 1900 BGB; see Schneider, *Hausväteridylle*, 239. This disingenuous way of filing for divorce was certainly not unique to the postwar Germans; the Royal Commission on Marriage and Divorce in the UK noted that "divorce 'by consent,' that is by fabrication, continued to thrive in the post-war years." See Langhamer, "Adultery in Post-War England," 100.

<sup>97</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 3, MdJ, HA Gesetzgebung, Berlin, Analyse über das Verfahren in Ehesachen im II. Halbjahr 1956, January 4, 1957, 12 of document, 183 of archival file.

Also of concern to the Ministry of Justice was the fact that Judges Narr, Brumme, and Klier seldom criticized the behavior of spouses, even though such critique was supposed to be a prominent feature of socialist jurisprudence. When they did censure spousal misconduct, these judges typically used stock language regarding the couple's thoughtless (*leichtfertig*) approach to marriage or the fact that a couple's behavior contradicted "the views of the working people" (*Anschauungen unserer Werktätigen*). Judges Narr, Brumme, and Klier might have intended the formulaic invocation of the "moral views of the working people" to serve an exhortative purpose. They thwarted this goal, however, by failing to provide contextually specific explanations of how exactly a given marital partner's conduct had violated prevailing mores or indeed what these mores entailed.<sup>98</sup> Even when they rejected a request for a divorce, Judges Narr, Brumme, and Klier often did not provide the spouses in question with advice about how to restore the viability of their marriage so as to reduce the likelihood that they would file for divorce again in the future.<sup>99</sup> Socialist morality was supposed to be the bedrock of East German jurisprudence, but it could not serve this function if it took the form of formulaic invocations.

### **How Exactly Was Socialist Morality to Be Translated into Law?**

With the kind of candor that did not make its way into official public pronouncements, Hilde Benjamin bewailed to her colleagues the fact that "there exists no

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<sup>98</sup> Judges Narr, Brumme, and Klier were far from the only members of their profession to receive this criticism. For another example, see BArch Berlin-Lichterfelde, DP1 SE 2226, Band 2, letter from Hauptinstrukteur Venhues, JVSt Neubrandenburg, to MdJ, HA II, Berlin, Betreff: Überprüfung der Eheverfahren, January 15, 1957, 6 of document, 33 back side of archival file.

<sup>99</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 3, Überprüfung der Eheverfahren im Stadtbezirksgericht Treptow, Magistrat von Groß-Berlin, Abteilung Justiz, Hauptreferat Recht, November 23, 1956, 6 of document, 3-back side of archival file.

clarity and certainty regarding moral views of love and marriage” and that “contact with philosophers should be made accordingly.”<sup>100</sup> Such contact was only in its nascent stages as late as January 1957, more than one year after the issuance of the Marriage Ordinance, when Benjamin asked Ministry of Justice spokesperson Herbert Wächtler to ascertain the extent to which the findings of East German philosophy professors regarding socialist morality had practical applicability for the legislative process.<sup>101</sup> In February 1957, Benjamin informed Matthäus Klein, Deputy Director and Professor of Philosophy at the Institute for Social Science at the Central Committee of the SED, that she and her colleagues had read with “great interest” Klein’s publications in the periodical *Einheit*.<sup>102</sup> Even though socialist jurisprudence was supposed to reflect socialist morality, Benjamin believed that this process could stand to benefit from greater scholarly mediation given the dearth of empirical evidence regarding the dynamics of family life in the GDR.

According to Klein, the process of adopting socialist moral values was often the unconscious result of workplace and societal interactions at first. For this reason, “[i]t [was] an important responsibility for the progressive part of the working class—the

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<sup>100</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 3, MdJ, HA Gesetzgebung, Berlin, Betreff: Diskussion im Kollegium über die Analyse der Verfahren in Ehesachen, January 15, 1957, 1 of document, 270 of archival file.

<sup>101</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 3, MdJ, Berlin, memo to Herbert Wächtler, undated but presumably from around January 1957 (based on its proximity to a January 1957 report in the archival file), 1 of document, 275 of archival file. Wächtler, for his part, defied his colleague Helmut Ostmann’s exhortation to attend the January 14, 1958 SED Central Committee Institute meeting about research pertaining to socialist morality since he had already attended other meetings on the same topic and felt that he could put his time to better use by devoting himself to more practical tasks. In other words, the Ministry’s liaison to academics studying socialist morality was of the opinion that such intellectual inquiry did not have meaningful implications for the pragmatic exigencies of the Ministry’s legislative responsibilities. See BArch Berlin-Lichterfelde, DP1 SE 2227, Band 7, letter from Hauptreferent Herbert Wächtler, MdJ, HA Gesetzgebung, Berlin, to Matthäus Klein, Stellvertretender Direktor des Lehrstuhls Philosophie, Institut für Gesellschaftswissenschaften beim ZK der SED, Berlin, January 10, 1958, 51 of archival file.

<sup>102</sup> BArch Berlin-Lichterfelde, DP1 SE 2227, Band 7, letter from Minister der Justiz Hilde Benjamin to Matthäus Klein, Redaktion der *Einheit*, Berlin, February 21, 1957, 1 of archival file.

Marxist-Leninist party—to make this process a conscious [sic underline] one for the working people through its ideological and educational efforts.”<sup>103</sup> This was necessary because “[t]he moral consciousness of the working masses—like their class consciousness—has in no way reached the level of their moral practices [sic underline] in society.”<sup>104</sup> As a result,

There are still a lot of people who are very much oriented towards the past in their moral thinking and behavior and who have not yet grasped that they are living in the world of socialism; others accept socialism, but believe that they can work on its behalf by invoking old—i.e., religious or general humanist and utopian—moral norms.<sup>105</sup>

Once East Germans realized the superiority of socialist moral tenets, they would abandon their outmoded capitalist attitudes. A fully fledged socialist moral consciousness was both the (eventual) product of as well as the inspiration for the ongoing struggle to strengthen socialist society, since “[t]he ethical values of a developing socialist society are not a finished product right from the start, but instead are continually realized, expanded, and improved by people’s productive (*schöpferisch*) behavior,” and this was characteristic of marital and familial values as well.<sup>106</sup> Klein did not feel obliged to explain why the catalog of socialist familial values did not have a specifically socialist cast, as they included “fidelity, honesty, respect for the other spouse, tact, being considerate, a communal spirit (*Gemeinschaftsgeist*), readiness to sacrifice,”

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<sup>103</sup> BArch Berlin-Lichterfelde, DP1 SE 2227, Band 7, Thesen zum Referat des Genossen Matthäus Klein über “Theoretische Probleme der marxistischen Ethik,” undated but presumably from 1957, 2 of document, 3 of archival file.

<sup>104</sup> Ibid., 3 of document, 4 of archival file.

<sup>105</sup> Ibid., 3-4 of document, 4-5 of archival file.

<sup>106</sup> Ibid., 8 and 13 of document, 9 and 14 of archival file.

among many others.<sup>107</sup> Despite this acknowledged overlap between “bourgeois” and socialist mores, Klein diagnosed a persistent lag between socialist moral practice and consciousness, as a result of which every SED member “must always strive to meet the norms of socialist morality in his societal and personal life so as to serve as an example to others.”<sup>108</sup> The process of moral acculturation was by no means a peripheral one; indeed, “[e]ducating people to become new socialist persons is [...] to a decisive extent a question of educating them about socialist morality.”<sup>109</sup>

Socialist jurists were supposed to promulgate socialist morality in their capacity as marital counselors of last resort. In theory, pre-trial hearings were supposed to provide judges and lay assessors with the opportunity to draw upon socialist morality to strengthen frayed marital bonds, but these hearings often did more to rekindle longstanding arguments between spouses than to bring them closer to the point of reconciliation.<sup>110</sup> Despite the Marriage Ordinance’s emphasis on the importance of averting divorce through rapprochement, the proportion of ostensibly successful instances of reconciliation was quite small relative to the total number of divorce cases.<sup>111</sup> Out of 29,840 divorce requests in the GDR during the second half of 1956, courts approved 50.9 percent, rejected 18.2 percent, and terminated 25 percent when spouses withdrew divorce filings of their own accord. Only in 5.6 percent of divorce cases did efforts at reconciliation during a pre-trial hearing (4 percent) or before the onset of a postponed

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<sup>107</sup> Ibid., 13 of document, 14 of archival file.

<sup>108</sup> Ibid., 14 of document, 15 of archival file.

<sup>109</sup> Ibid., 16 of document, 34 of archival file.

<sup>110</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 3, Häusler, Ködel, and Rehm, “Bemerkungen zum Eheverfahren,” undated *Neue Justiz* article draft, 1-2 of document, 141-142 of archival file.

<sup>111</sup> Whereas Andrew Port and Paul Betts contend that East German divorce courts “obediently complied” with the injunction to “look for reasons to keep couples together,” I maintain that procedural compliance did not ensure the efficacy of such measures. Port, “Love, Lust, and Lies under Communism,” 493, drawing upon Betts, *Within Walls*, 97-100.

trial (1.6 percent) prove to be successful.<sup>112</sup> The proportion of approved divorce requests grew in the ensuing years, from 54.8 percent in 1957 to 63.8 percent in 1962.<sup>113</sup>

The Ministry of Justice's desire to foster reconciliation between spouses notwithstanding, it was also intent upon overcoming mendacious instances of "forgiveness" (*Verzeihung*) in which the spouse primarily responsible for the long-term disintegration of the marriage would "often take advantage of certain situations or states of mind to convince the other spouse to have sexual intercourse so that everything that had happened beforehand was forgiven and thus inadmissible in a divorce trial." By denying that sexual activity on its own signified the resolution of marital conflict, the courts sought to ensure that spousal reconciliation would be sincere.<sup>114</sup> In practice, however, many judges continued to consider recent sexual intercourse as a sign of reconciliation between spouses, and thus did not operate according to the spirit of the new law. This was yet another instance in which the affective dimension of a marital relationship took precedence over "political" considerations in East German judges' determination of marital viability.

In 1957, for instance, a judge in the Erfurt-Mitte District Court denied a wife's request for divorce because her husband had continued to have sexual intercourse with

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<sup>112</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 3, MdJ, HA Gesetzgebung, Berlin, Analyse über das Verfahren in Ehesachen im II. Halbjahr 1956, January 4, 1957, 2 of document, 169 of archival file. At 8% of divorce cases, the prevalence of ostensibly successful attempts at marital reconciliation was notably higher in Berlin, despite Berlin courts' generally lackadaisical approach to pre-trial hearings, as per: Analyse über das Verfahren in Ehesachen im II. Halbjahr 1956, January 4, 1957, 12 of document, 183 of archival file.

<sup>113</sup> BArch Berlin-Lichterfelde, DP1 SE 1491, Teil 2, MdJ, Berlin, Der erreichte Entwicklungsstand im Bereich der Familie und ihre fördernden und hemmenden Einflüsse auf die gesellschaftliche Weiterentwicklung, undated but circa 1964, 8 of document.

<sup>114</sup> BArch Berlin-Lichterfelde, DO1 14398, Bericht über die Ergebnisse der Diskussion zum Entwurf des FGB auf der Arbeitstagung im MdJ vom 19. Oktober 1954, Anlage: Vorschlag zur Behandlung des Scheidungsrechts, 2 of document.

her; the judge took this as a sign that he had forgiven her for her extramarital affair, even though he too wanted a divorce. Karwehl, a court administrator for the region of Erfurt, disagreed with this decision because he was certain that the reference to “forgiveness” (*Verzeihung*) was part of a broader tendency on the part of courts to invoke “old-fashioned terms” (*althergebrachte Ausdrücke*) and continue to issue rulings in the spirit of the *Verschuldensprinzip*. In this case, for instance, the judge had decided that if the husband had forgiven the wife for her marital infraction, then she was not responsible (*schuldig*) for ruining the marriage; grounds for divorce—at least by the standards set by the *Verschuldensprinzip*—were thus not at hand. Karwehl admitted that

[c]ontinued sexual intercourse is doubtlessly a sign that marital disputes or even adultery might not necessarily constitute serious grounds for granting a divorce. But [he also believed that] only if the court had actually determined that these were not serious grounds would it have been acceptable for it not to grant the divorce that both parties wanted.<sup>115</sup>

Karwehl was agnostic as to whether ongoing marital sexual intercourse was necessarily a sign of spousal reconciliation. But he was certain that the existence of sexual activity would not suffice in and of itself to override other “serious grounds” for granting a divorce, especially when doing so would accord with the wishes of both spouses. If the existence of sexual activity *within* a marriage did not necessarily reveal the state of that marriage, then how would East German courts assess the implications of *extramarital* sexual affairs for the viability of a marital union?

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<sup>115</sup> BArch Berlin-Lichterfelde, DP1 SE 2227, Band 6, Karwehl, Leiter der JVSt Erfurt, Zwischenbericht, assessment of KG Erfurt-Mitte 3 Ra 60/57, to MdJ, Berlin, October 10, 1957, 1-2 of document, 134-135 of archival file.

## Was the New Divorce Law Too Kind to Adulterers, or Not Kind Enough?

Donna Harsch aptly notes that

[i]n the fanfare about divorce law, married women vented their fears that the courts, single women, and their own husbands were ready to cast them to the wind. The public manifested much sympathy with the virtuous, loyal older wife victimized by a philandering, abandoning husband and a predatory, younger rival.<sup>116</sup>

It was not only the public that felt this way, however. Although infidelity was no longer necessarily sufficient grounds for granting a divorce under the Marriage Ordinance, East German courts were not immune to popular sentiment when it came to expressing sympathy for the plight of the “virtuous, loyal older wife.” In a 1957 divorce case, for instance, the Prenzlau District Court sought to preserve a marriage in which a wife was willing to take back her philandering husband. The court declared the husband’s female lover (who obstinately refused to end the affair) to be worthy of “societal rebuke” (*gesellschaftlicher Tadel*),” since “it was her duty to remind him of his marital duties and not allow him to become further estranged from his wife.”<sup>117</sup> As in many other East German divorce cases, it was women’s duty to teach husbands about the perils of adultery *and* to absolve them of its consequences, with these responsibilities falling to the adulterous female partner and the wife, respectively.

According to the logic that prevailed in this case, without goading from both of the women in his life, a philandering husband would not be able to recognize the importance of marital fidelity. It was the adulterous woman who bore the brunt of the

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<sup>116</sup> Harsch, *Revenge of the Domestic*, 208.

<sup>117</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 2, letter from Hauptinstrukteur Venhues, JVSt Neubrandenburg, to MdJ, HA II, Berlin, Betreff: Überprüfung der Eheverfahren, January 15, 1957, 7 of document, 34 of archival file.

blame for “involv[ing] herself in another person’s marriage and foment[ing] strife in a married couple.”<sup>118</sup> In this sense, the gendering of the purveyors of socialist marital morality was not any different than that of its “bourgeois” counterpart, since both moral codes were predicated upon the assumption that men’s eyes would invariably wander if women did not keep them in check.

However much sympathy that older wives might have elicited from East German judges, there was a fair amount of debate at the Ministry of Justice as to whether the generally agreed upon need to discipline wayward spouses necessarily precluded granting their requests for divorce. Ministry spokesperson Wächtler challenged what he understood to be the widespread misinterpretation of § 8 of the Marriage Ordinance—and not just by lower-level district courts. He criticized the Dresden Regional Court for having upheld on appeal a district court decision that rejected a request for divorce by a philandering husband who was already living with his new partner and whose wife had no interest in living with him again. Wächtler opined that “[i]n this case, the court’s educational influence over the parties [to be achieved by denying the philandering husband a divorce] is no longer the most suitable means for bringing the couple back together.” The larger significance of Wächtler’s intervention was his contention that if a marriage had lost its meaning for a couple and for the couple’s children, then it had effectively lost its meaning for society as well—and no amount of socialist jurisprudential influence was going to change that.<sup>119</sup> Wächtler was confident that the new divorce law did not stand in the way of ending an irrevocably broken marriage even

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<sup>118</sup> Ibid.

<sup>119</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 1, report by Hauptreferent Herbert Wächtler, MdJ, Berlin, undated but apparently from late January to March 1956, 5 of document, 92 of archival file.

when a spouse's disregard for the marital union warranted moral condemnation.<sup>120</sup> Given the SED's desire to refute widespread accusations that the Marriage Ordinance had made divorce too easy to obtain, this was quite a risky stance for Wächtler to take, since courts following his interpretation of the law would have been even more likely to grant divorce requests than was already the case.

It is thus not surprising that Kurt Schumann, President of the Supreme Court, would wonder whether granting divorce requests more freely would effectively reward adulterous husbands for their heedlessness:

[i]n general, a marriage is in good shape until the husband has an affair. He leaves his family as a result of his affair to live with the other woman and refuses to return to his wife. [State Prosecutor Kirnse] did not think that it was right to grant divorces in such cases since it would give *Ehebrecher* the opportunity to break up marriages and [thereby] sanction the thoughtlessness [of the husband].<sup>121</sup>

In Schumann's estimation, "[i]f a man has a thoughtless attitude towards his marriage, he needs to be educated [*erzogen*]. The court's responsibility to educate [*erzieherische Aufgabe*] cannot be ignored."<sup>122</sup> Dr. Heiland, Senior Judge at the Leipzig Regional Court, adopted an even more stringent stance. If a marriage had lasted for many years before the onset of a spouse's sexual peccadilloes, and if the divorce would harm the interests of the other spouse or of underage marital children, then Heiland was certain that a divorce should not be granted "even when the spouse seeking a divorce declares

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<sup>120</sup> Ibid., 6 of document, 93 of archival file. Wächtler's aversion to an excessively punitive stance towards adultery was also in evidence in another case, as cited in Port, "Love, Lust, and Lies under Communism," 492.

<sup>121</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 1, Niederschrift über die 298. Arbeitsbesprechung der Richter des Obersten Gerichts, Vorsitz: Schumann, Präsident des Obersten Gerichts, April 18, 1956, 9 of document, 134 front side of archival file.

<sup>122</sup> Ibid.

that he would not return to his family under any circumstances, and his return was in fact not to be expected.”<sup>123</sup>

Heiland prioritized the preservation of marital unions in the face of seemingly irreconcilable differences because he distinguished between the degree of their objective disintegration and their ongoing viability and significance for the immediate family and society. In exalting a marriage’s significance for society over its meaning for the spouses, he seemingly confirmed the allegations of those who criticized the political instrumentalization of marriage by the SED. Even as he disregarded the wishes of the spouse who was desirous of ending a marriage, however, he made it clear that society’s interest in a marital union and that of the slighted spouse were more or less equivalent. In other words, a marriage was valuable to society and the state when it ensured that those who upheld the tenets of socialist morality would not have to suffer at the hands of those who disregarded them. The goal of the Marriage Ordinance, after all, was to serve as an educational tool for improving marital morality in society at large, and if some spouses’ “unconditional, but legally unjustifiable” yearnings for divorce had to be rejected along the way in order to serve as a cautionary example for other couples experiencing marital discord, then so be it.<sup>124</sup> Heiland acknowledged that

[s]pouses seeking a divorce will likely oppose this stance by saying that denying a divorce on these grounds ignores the ‘reality’ that a marriage in which the spouses lived separately has lost its meaning. This stance, however—as far as I can tell from my own experiences—accords with the opinions of the masses and of most district courts.<sup>125</sup>

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<sup>123</sup> BArch Berlin-Lichterfelde, DP1 SE 2227, Band 4, Heiland, Oberrichter, BG Leipzig, Bemerkungen zu einigen in der Arbeitsbesprechung vom 25. Juli 1956 behandelten Fragen, 2-3 of document, 79-80 of archival file.

<sup>124</sup> Ibid., 3 of document, 80 of archival file.

<sup>125</sup> Ibid., 3 of document, 80 of archival file.

In other words, Heiland felt that divorce law should serve as a vehicle for preserving marriages so as to avoid rewarding marital misconduct, and that doing so was in society's interest not least because of the weight of popular opinion. He admitted, however, that further discussion about the implementation of § 8 of the Marriage Ordinance would be necessary.

Despite Schumann's and Heiland's objections, there were other judges on the Supreme Court who agreed with Wächtler. Senior Justice (*Oberrichter*) Hans Rothschild believed that when "some courts denied the existence of serious reasons for granting a divorce when the husband who had separated himself from his family was the one who was also seeking a divorce," they were effectively reverting to the *Verschuldensprinzip* by penalizing the spouse who was "guilty" of having precipitated the ruin of a marriage. Supreme Court Senior Justice Löwenthal and State Prosecutor Ms. Fröhbrod joined Rothschild and Wächtler in arguing that granting divorces even to profligate husbands was *not* necessarily at odds with East German jurisprudence's educational objectives, since "[t]he accusation of thoughtlessness could apply only to a man who had multiple affairs and not to a man who had a relationship with one woman with whom he had been living for years. Preserving a disrupted marriage just for educational reasons (*aus erzieherischen Gründen*) is not right."<sup>126</sup> From this perspective, a divorce could be granted if a spouse had a flippant attitude towards a particular marital arrangement, but not if she or he espoused a similar view about the institution of marriage in general, i.e.,

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<sup>126</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 1, Niederschrift über die 298. Arbeitsbesprechung der Richter des Obersten Gerichts, Vorsitz: Schumann, Präsident des Obersten Gerichts, April 18, 1956, 9 of document, 134 front side of archival file.

if she or he had been married and unfaithful numerous times.<sup>127</sup> In other words, splitting up a marriage as a result of a one-time adulterous infraction would not compromise the educational function of socialist jurisprudence, but fostering the genesis of a new species of serial adulterers certainly would.

The disagreement thus revolved around how East German jurisprudence could ensure that exhortative language and judicious decisions were not mutually contradictory in judges' handling of divorce cases. Ministry of Justice official Dr. Ostmann proposed a compromise: husbands who left their wives and were looking for easily approved divorces needed to be educated by the courts to abandon their careless attitude towards marriage, but if a husband had what a court determined to be a compelling reason to leave his wife, then perhaps his marriage was in fact so ruined that his desire for a divorce was not entirely unwarranted.<sup>128</sup>

The controversy surrounding the implementation of this aspect of divorce law might have stemmed in part from the fact that state functionaries and SED were not always moral exemplars in their own marriages.<sup>129</sup> A state functionary by the name of Erich B. had had at least three adulterous affairs during the course of his marriage even though

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<sup>127</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 3, Eheanalyse: Stadtbezirksgericht Prenzlauer Berg, Magistrat von Groß-Berlin, Abteilung Justiz, Hauptreferat Recht, November 23, 1956, 20 of document, 28 back side of archival file.

<sup>128</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 1, Niederschrift über die 298. Arbeitsbesprechung der Richter des Obersten Gerichts, Vorsitz: Schumann, Präsident des Obersten Gerichts, April 18, 1956, 10 of document, 134 back side of archival file.

<sup>129</sup> Andrew Port astutely observes that “[i]t is difficult to say whether this [anger directed by East Germans against the sexual hypocrisy of local party functionaries] was meant sincerely and thus reflected an internalization of official values—or if it was merely an ironic instrumentalization of communist morals (i.e., another ‘weapon of the weak’ meant to subvert authority).” Port, “Love, Lust, and Lies under Communism,” 485-486.

he knows that it is particularly functionaries of our state who must serve as role models (*Vorbild*) for all other citizens in their professional and personal lives. Practicing what one preaches, rather than preaching alone, is the only thing that will win over those who are still skeptical about socialism.<sup>130</sup>

His wife, Johanna B., had stayed with him after his initial bout of infidelity ten years earlier in 1946 so as to preserve his reputation as a morally irreproachable “functionary in our young, democratic state.”<sup>131</sup> This was the primary reason for which the Halle Regional Court overturned the decision of the Köthen District Court, which had initially granted Erich’s request for divorce. According to the Halle Regional Court’s logic, expecting a woman who had sought to protect the reputation of a philandering, but politically orthodox, husband to suffer the indignity of divorce at an advanced age would have constituted a form of unreasonable hardship (*unzumutbare Härte*). The consequences of marital infidelity were not merely personal, but also reflected upon the moral integrity of the socialist project as a whole—especially when an SED member was involved.

One male SED member experienced a midlife marital crisis with a distinctly socialist twist, and he was not alone in this regard. Instead of seeking a new spouse merely because she was younger and more attractive, he wanted to divorce his wife of twenty-seven years because of her lagging socialist consciousness. From the perspective of husbands like this one, the oft-decried “politicization” of East German marriages had apparently failed, since a good number of older wives had yet to experience the kind of political epiphany necessary to retain the interest of their invariably more politically

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<sup>130</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 2, BG Halle/Saale, 3. Zivilsenat, 3 S Ra 140/56, appeal of Ra 224/55 (KG Köthen Urteil), July 10, 1956, 9 of document, 83 of archival file.

<sup>131</sup> *Ibid.*, 5 of document, 81 of archival file.

savvy spouses. In other words, the sociopolitical meaning ascribed to marriage by the SED could also serve as a convenient excuse for men who sought to attenuate their adulterous indiscretions with unimpeachable political motivations.<sup>132</sup>

This cynical instrumentalization of ideological rhetoric did not prove to be an effective strategy in the courtroom, however. Despite the SED's inclination to reward ideological ardor in other contexts, the Gräfenhainichen District Court did not grant this man's request for a divorce, and Jahn, head of the Court Administration Center in Halle, considered this decision to be an exemplary one.<sup>133</sup> Jahn and the Gräfenhainichen District Court were not alone in their skepticism of political incommensurability in marriage as the motivation for an extramarital affair. Heiland excoriated functionaries for their unwarranted sense of superiority (*Überheblichkeitsvogel*) in such cases, and Mühlberger, director of the Karl-Marx-Stadt Regional Court, opined that "[t]he wife who is attacked for being politically backwards is often quite progressive (*fortschrittlich*)."<sup>134</sup> In other words, political backwardness had joined bad housekeeping and sexual frigidity as potentially spurious excuses that philandering husbands provided to justify their extramarital affairs in front of divorce case judges.<sup>135</sup>

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<sup>132</sup> In an interview with an East Berlin doctor who confessed to having been a serial adulterer during the 1970s, it became clear to Josie McLellan that "[u]nlike a West German [man], he was [...] able to [remarry] without the obligation to pay child support and without the voice of feminism in his ear. Men such as Herr J were enabled to pursue both personal and professional fulfillment, safe in the knowledge that women's rights had been assured by the state." McLellan, *Love in the Time of Communism*, 74-75.

<sup>133</sup> BArch Berlin-Lichterfelde, DP1 SE 2227, Band 6, letter from Jahn, Leiter der JVSt Halle (Saale), to MdJ, HA II, Berlin, October 9, 1957, 154-155 back of file.

<sup>134</sup> BArch Berlin-Lichterfelde, DP1 SE 2227, Band 4, Niederschrift über die 310. Arbeitsbesprechung der Richter des Obersten Gerichts am 25. Juli 1956, 13 of document, 53 of archival file.

<sup>135</sup> Paul Betts has analyzed a similar divorce case involving a Catholic wife and a philandering husband from 1960 in which the husband's request for divorce was also denied. According to Betts, "[i]n the verdict, politics—to say nothing of the fact that the husband was an enthusiastic [SED] Party member—exerted no bearing on the case, underscoring how civil courts were often quite removed from heavy-handed state ideology. [...] 'despite his socialist worldview' [the husband] was entering into 'marriage-undermining relations with other women.' Socialism was not just about political conviction and public

## **Moving Beyond the Notion of Marriage as a "Pension Institution?"**

Even with the Marriage Ordinance's limitation on the duration of alimony payments, the Ministry of Justice had hoped that women would welcome the new divorce provisions. With the BGB's stipulation of fault-based divorce, a husband who had ruined a marriage by having an affair could convince his wife to file for divorce as the wronged spouse and place the blame on him in return for his guarantee of a generous alimony settlement. After a couple had come to such an agreement, the divorce trial itself was a mere formality. In the short term, this arrangement allayed the wife's financial concerns. If her ex-husband remarried about a year later, however, he would typically try to get his alimony payments reduced or eliminated in light of the financial burden that he incurred by starting a new family—and this, from the viewpoint of the Ministry of Justice, would constitute a more severe psychological blow for the wife than never having received any alimony at all. Financially strapped housewives would beg to differ, but for the SED, the principle of not allowing philandering husbands to buy themselves out of a marriage (*Abkauf*) was more important than the misgivings of women who were hesitant about entering the workforce.<sup>136</sup>

Socialist marriage was not, after all, supposed to be a pension institution (*Versorgungsanstalt*) in which employed husbands provided financial support for their non-employed wives—or ex-wives, for that matter—in perpetuity. Although the

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service, but was just as concerned with private comportment." Betts, *Within Walls*, 106. Further observations about the role of political "backwardness" and incommensurability in East German divorce cases can be found in Port, "Love, Lust, and Lies under Communism," 492; Hagemeyer, *Zum Familienrecht in der Sowjetzone*, 15.

<sup>136</sup> BArch Berlin-Lichterfelde, DO1 14398, Bericht über die Ergebnisse der Diskussion zum Entwurf des FGB auf der Arbeitstagung im MdJ vom 19. Oktober 1954, Anlage: Vorschlag zur Behandlung des Scheidungsrechts, 1 of document.

Ministry of Justice official who assessed the discussions of the FGB draft in 1954 believed that “even in marriages of long standing divorce is sometimes justified,” s/he was far from unsympathetic to the concerns of older women about the implications of no-fault divorce. S/he recognized “the healthy core” of their moral objections to the law’s ostensible tolerance of their older husbands’ philandering, and pointed out that courts would no longer consider spouses living apart for at least three years necessarily as grounds for divorce, as had been the case under National Socialist divorce law.<sup>137</sup> This change in policy would make it significantly harder for philandering spouses to leave their families, since they could no longer count upon the nonmarital household automatically receiving the official imprimatur of a family court judge.

This reform withstanding, attendees at a 1956 Attorneys’ Collegium directors’ convention came to the consensus that marriages of long standing should *not* be preserved only to ensure older wives’ financial well-being. The lawyers assembled did, however, believe that ex-wives should be entitled to more than just two years’ worth of alimony payments.<sup>138</sup> They thus hoped to counteract the phenomenon of older women who did not file for divorce due to financial concerns even when they acknowledged that their marriages were unsalvageable.<sup>139</sup>

Spouses intent upon preserving troubled marriages, whether out of unflagging emotional affinity or more pragmatic exigencies, were certainly not unique to the GDR, but their dissatisfaction took on a particular valence because of the Marriage Ordinance.

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<sup>137</sup> Ibid., 3 of document. According to Donna Harsch, “Justice officials sympathized with older wives and saw their opposition to divorce reform as ‘backward but ethical.’” Harsch, *Revenge of the Domestic*, 209.

<sup>138</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 3, “Thesen zum Eheverfahren,” conference of heads of East German Attorneys’ Collegia (*Rechtsanwaltskollegien*) on December 1-2, 1956 regarding the implementation of the November 24, 1955 Marriage Ordinance, 3 of document, 138 of archival file.

<sup>139</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 3, Häusler, Ködel, and Rehm, “Bemerkungen zum Eheverfahren,” undated *Neue Justiz* article draft, 13-14 of document, 153-154 of archival file.

Under § 48, section 2 of the 1946 *Kontrollratsgesetz*, a wife had been able to prevent her philandering husband from ending a marriage by offering a “justified objection” (*berechtigter Widerspruch*) to her husband’s request for a divorce, but under the Marriage Ordinance, this was no longer a formal part of divorce case procedure. Spousal objections—or, for that matter, the lack thereof—were not supposed to prejudice judges’ determination of the advisability of granting a divorce in any given case. Some women, however, found a way to circumvent the absence of such a provision in the new law. According to a lawyer by the name of Pollack, “word is spreading among women that the way for them to thwart their husbands’ success in obtaining a divorce” was to say that they felt that their husbands would return to them, even if they did not really believe—or want—this to be the case.<sup>140</sup> Some judges were inclined to deny a divorce request on this basis alone, and thus violated the Marriage Ordinance’s stipulation that such decisions should only be reached after the objective determination of the overall state of a marriage.

This strategy might very well have been an effective one, since even the Supreme Court was not of a single mind regarding the advisability of terminating marriages of long standing. In one 1956 case, it ruled that the prospect of “unreasonable hardship” for the ex-wife *should not* constitute an obstacle to divorce since she would presumably be able to secure a livelihood on her own. But in another case during the same year, the Supreme Court ruled that the likelihood of “unreasonable hardship” *should* be reason enough not to grant a divorce since an older woman would experience difficulty in

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<sup>140</sup> BArch Berlin-Lichterfelde, DP1 VA 1335, Band 2, letter from Pollack, Rechtsanwalt, Dresden, to OG, May 28, 1957, 6 back side of document, 123 back side of archival file.

integrating herself into the workforce.<sup>141</sup> The question of “unreasonable hardship” thus became central to the East German judicial system’s efforts to balance the concerns of older wives with the ideological injunction to dispense with the notion of marriage as a “pension institution.”

In advocating against the de facto perpetuation of the *Verschuldensprinzip* in East German jurisprudence, Senior Justice Rothschild of the Supreme Court argued (as noted earlier in this chapter) that courts *could* grant a spouse’s wish for divorce even if she or he was the party that was at fault for having disrupted a marriage. But this by no means meant that Rothschild felt that courts *should* necessarily grant divorce requests under such circumstances—merely that they should have the juridical discretion to do so. If ending a troubled marriage would entail “unreasonable” financial hardship for an ex-spouse, then Rothschild believed that it should not be done. For Rothschild, a marriage that provided material sustenance for a faithful spouse and thus allayed her fears of the prospect of material deprivation at an advanced age had not in fact lost its meaning for the couple or for society.<sup>142</sup>

Heiland spoke even more directly to the value of long-standing marriages for socialist society when he commented that

[i]t is of course easier and more agreeable to pay off one’s family in order to live together with one’s younger lover, but doing this does not serve the building of socialist society or fulfill the responsibilities of marriage, which include a stage of proving oneself and providing mutual assistance in old age.<sup>143</sup>

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<sup>141</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 3, Häusler, Ködel, and Rehm, “Bemerkungen zum Eheverfahren,” undated *Neue Justiz* article draft, 18-19 of document, 158-159 of archival file.

<sup>142</sup> BArch Berlin-Lichterfelde, DP1 SE 2227, Band 4, Niederschrift über die 310. Arbeitsbesprechung der Richter des Obersten Gerichts, July 25, 1956, 9 of document, 51 front side of archival file.

<sup>143</sup> BArch Berlin-Lichterfelde, DP1 SE 2227, Band 4, Heiland, Oberrichter, BG Leipzig, Bemerkungen zu einigen in der Arbeitsbesprechung vom 25. Juli 1956 behandelten Fragen, 5 of document, 82 of archival file.

Marriage might no longer have been a “pension institution” under socialism, but this did not absolve spouses of the obligation to provide one another with mutual support, financial and otherwise, into the twilight years of a marriage, according to Heiland. He also criticized court decisions that assumed that it would be easy for older women to find work given the supposedly favorable economic situation of the GDR; he urged judges instead to assess this on a case-by-case basis. Older divorced wives did not just face the prospect of financial hardship and the

“taint that comes with being a divorcée,” but the loss of deeper values associated with equal rights (*Gleichberechtigung*) that should not be ignored. The occasionally invoked mantra that “the defendant [wife who objects to her husband’s filing for divorce] will sooner or later come to terms with the facts of the matter” does not constitute a solution to this problem!<sup>144</sup>

In other words, Heiland accused the East German judicial system of having been overly glib in consigning the marriage-as-“pension institution” to the historical dust heap at a time when older ex-wives in particular had not been privy to the advantages of socialist gender equality during their upbringing and vocational socialization that would have facilitated their belated entry into the paid workforce. Despite her greater willingness to grant divorces to spouses in long-term marriages, even Hilde Benjamin had expressed a similar concern in 1954, namely that inflexible adherence to the stance that marriage should never be a “pension institution” “gives rise to the impression that equality [in the domestic realm] has already been achieved.”<sup>145</sup> But Heiland’s position, unlike that of

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<sup>144</sup> Ibid.

<sup>145</sup> Heineman, *What Difference Does a Husband Make?*, 194. Despite the acuity of his analysis of divorce law in the GDR, Paul Betts does not address why longstanding marriages were not infrequently subject to

Benjamin, was not contingent upon the achievement of full gender equality. Instead, Heiland felt that older husbands owed their wives a debt of faithfulness not merely for the preservation of a relationship, but for the sake of socialist marital morality itself.<sup>146</sup>

By contrast, Heiland's version of socialist morality demanded that courts dissolve marriages of only brief standing if there was a lack of "mutual love and respect" from their inception, since such marriages had never fulfilled the personal and societal criteria for a viable marriage and had thus never been meaningful to the couple *or* to society.<sup>147</sup> Even though this was the opposite of his recommendation regarding the advisability of ending marriages of long duration, it was also a controversial stance. In 1956, a court administrator for the region of Neubrandenburg excoriated the Neustrelitz District Court for having granted a divorce because "the parties [had] been married for less than a year and thus it [was] not possible for them to have comprehended the meaning of marriage."<sup>148</sup> According to this logic, the administrator pointed out, *any* newlyweds' marriage could be dissolved merely by virtue of its relatively brief duration.

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greater legal protection in practice if not in theory, nor does he take note of the internal dispute over exactly how much protection older marriages deserved; see Betts, *Within Walls*, 98. For her part, Schneider acknowledges an early split within the FGB reform commission regarding the question of financial support for older ex-wives, but she does not explore the extent to which these wives continued to attract sympathy from influential governmental officials—and not merely along gendered lines, as her comments sometimes imply. See Schneider, *Hausväteridylle*, 248, 250.

<sup>146</sup> Eva Kolinsky has argued that because East German women came to expect *Gleichberechtigung* to be more fully realized in their marital relationships than was typically the case, "discontent with such gender inequalities may have contributed to the high divorce rate" in the GDR. Eva Kolinsky, "Gender and the Limits of Equality in East Germany," in *Reinventing Gender: Women in Eastern Germany since Unification*, eds. Eva Kolinsky and Hildegard Maria Nickel (London: Cass, 2003), 100-127, here 110, drawing upon Dennis, "Family Policy and Family Function."

<sup>147</sup> BArch Berlin-Lichterfelde, DP1 SE 2227, Band 4, Heiland, Oberrichter, BG Leipzig, Bemerkungen zu einigen in der Arbeitsbesprechung vom 25. Juli 1956 behandelten Fragen, 6 of document, 83 of archival file.

<sup>148</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 2, letter from Hauptinstrukteur Venhues, JVSt Neubrandenburg, to MdJ, HA II, Berlin, Betreff: Überprüfung der Eheverfahren, January 15, 1957, 5 of document, 33 of archival file.

From Heiland's perspective, however, his recommendation that courts terminate meaningless short-term marriages while preserving meaningful long-term ones stemmed from the same unimpeachable moral logic. A marriage's meaning for society did not stem primarily from demographic concerns or the degree of a couple's ideological compatibility, but instead to a significant degree from the emotional viability of the marital bond. From Heiland's perspective, the expectation that older spouses would assist one another was not merely a legal one, but the culmination of an affective bond cultivated during many years of marital cohabitation.

Justice Rothschild's and Heiland's interpretation of the law was not without its adherents at lower levels of the East German judicial apparatus. The Dresden District Court and Dresden Regional Court Administration in late 1956 agreed with them that if financial hardship was the likely outcome of granting a divorce, then the marriage in question had not in fact lost its meaning for the couple or for society.<sup>149</sup> In effect, these courts operated according to the assumption that taking the prospect of "unreasonable hardship" into account in a divorce case did not amount to perpetuating the notion of marriage as a "pension institution." Hilde Benjamin and many members of the Supreme Court strenuously disagreed, even though they did not downplay the importance of "unreasonable hardship" entirely. Ministry of Justice officials aligned with Benjamin felt obliged to remind the Dresden judges and court administrators that a spouse could not "retain possession" of (*ersitzen*) her or his spouse by virtue of the longevity of a marriage

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<sup>149</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 2, letter from Taubert, Leiter der JVSt Dresden, to MdJ, HA II, Berlin, Betreff: Überprüfung der Eheverfahren im Bezirk Dresden, November 24, 1956, 3 of document, 100 of archival file.

as one could with a piece of property.<sup>150</sup> From the standpoint of these functionaries, the judges in Dresden had forgotten that marriage as a “pension institution” was supposed to be a thing of the past.

Senior Justice Heinrich of the Supreme Court urged East German judges to ascertain the degree to which a marriage had lost its meaning for a couple, children, and society as stipulated by § 8 of the Marriage Ordinance *in conjunction with* the prospect of “unreasonable hardship.” In other words, courts could not disaggregate the two issues, especially when doing so resulted in the expectation of “unreasonable hardship” taking precedence over serious and legitimate reasons for acceding to a request for divorce. For Heinrich—as for his fellow Justices Schumann, Kleine, and Löwenthal on the Supreme Court and Minister Benjamin herself—concern for the financial well-being of a spouse did not in and of itself legitimate the preservation of an otherwise untenable marriage.<sup>151</sup>

The anti-“pension institution” officials at the Ministry of Justice also hoped that courts would not consider the question of “unreasonable hardship” only in financial terms. These officials argued that forcing spouses to remain in a non-viable marriage constituted more of an “unreasonable hardship” than any pecuniary difficulties that might result from the dissolution of an already frayed marital bond. In a 1956 district court divorce case decision that the Ministry of Justice deemed to be exemplary, a husband (Arno M.) viewed his 40-plus-year-long marriage as ruined while his wife (Dorothea M.) did not, and the court surmised that Dorothea had ulterior motives for wanting to remain married. The district court thus explored the extent of the financial hardship to which

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<sup>150</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 2, MdJ, Berlin, Bericht über die vom BG Halle/Saale durchgeführte Stützpunktbesprechungen, November 7, 1956, 9 of document, 129 of archival file.

<sup>151</sup> BArch Berlin-Lichterfelde, DP1 SE 2227, Band 4, Niederschrift über die 310. Arbeitsbesprechung der Richter des Obersten Gerichts, July 25, 1956, 9 of document, 51 front side of archival file.

Dorothea would be subject only *after* it had determined that the marriage was indeed so ruined (*zerrüttet*) that serious reasons existed for splitting it up as defined by § 8 of the Marriage Ordinance.<sup>152</sup> In this case, the dominant view prevailed, namely that the prospect of financial adversity for an ex-wife was not sufficient to prevent the granting of a divorce if the degree of marital ruin warranted it.

Many adulterous husbands who were dissatisfied with courts that rejected their pleas for divorce were more than willing to speak to this issue. In objecting to the Leipzig-South District Court's decision to deny his request for a divorce, Alfred T. asked what was more immoral: a wife clinging to a meaningless marriage because she selfishly expected lifelong sustenance from her spouse, or an adulterous husband like himself who was just trying to clear things up (*klare persönliche Verhältnisse*)? Alfred T. had apparently taken to heart the official rhetoric about marriage no longer being a "pension institution":

The question necessarily arises in conjunction with this affair: what is immoral behavior, and what constitutes a violation of morals and ethics? Have I not been seeking to attain a solution to this situation and moral purity since 1956, when the senselessness of this marriage became readily apparent? Is not the defendant [i.e., his wife] violating all moral standards when she fails to recognize the need to end a marriage that has become meaningless and thereby prevents the attainment of moral clarity [*klare Verhältnisse*]?<sup>153</sup>

For Alfred T., adultery was not the cause of his marital problems, but instead a means of escaping from a marriage that had already been on the verge of collapse. He

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<sup>152</sup> BArch Berlin-Lichterfelde, DP1 SE 2226, Band 2, KG [location of court not specified], Ra 117/56, November 13, 1956, 4 of document, 155 back side of archival file.

<sup>153</sup> BArch Berlin-Lichterfelde, DP1 SE 0415, Stellungnahme zur unberechtigten Abweisung meiner Klage auf Ehescheidung durch das KG Leipzig-Süd (where Alfred T. had filed for divorce on August 3, 1962), 4 of document.

was convinced that finding another female partner was the only way that he could lead a life “in honor and dignity,” and an action undertaken with this kind of motivation “can in no way be considered immoral.”<sup>154</sup> Holding Alfred T. financially responsible for his wife’s ongoing financial well-being by preserving the marriage was more harmful to society than the dissolution of the marriage would be, since “[i]n my capacity as a working person [*werktätiger Mensch*], I will demonstrate that I can meet the socialist state’s expectations for my personal, societal, and professional life once the bond of a marriage that exists in name only no longer constitutes a hindrance to my doing so.”<sup>155</sup> Alfred T.’s moral logic must have been convincing, since the Leipzig Regional Court overturned the Leipzig-South District Court’s decision on April 12, 1963 and granted his request for a divorce.<sup>156</sup>

But there were still key officials at the Ministry of Justice who remained receptive to the objections raised by aggrieved older wives. Eight years after the Marriage Ordinance had gone into effect, Ministry of Justice spokesperson Grzegorek reassured divorce case defendant Margarete S. that the law did not in fact reward philandering husbands looking to abandon their aging wives in favor of younger women:

You can see that the law sets the bar high for granting a divorce in order to protect the interests of aging wives; a divorce will not be granted just because a husband suddenly begins a relationship with a younger woman. If a divorce is to be

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<sup>154</sup> BArch Berlin-Lichterfelde, DP1 SE 0415, Stellungnahme zur unberechtigten Abweisung meiner Klage auf Ehescheidung durch das KG Leipzig-Süd (where Alfred T. had filed for divorce on August 3, 1962), 4 of document.

<sup>155</sup> BArch Berlin-Lichterfelde, DP1 SE 0415, letter from Alfred T., Senftenberg, to KG Leipzig-Süd, July 24, 1962, 3 of document.

<sup>156</sup> BArch Berlin-Lichterfelde, DP1 SE 0415, letter from Grass, Direktor des BG Leipzig, to MdJ, Berlin, May 6, 1963, unpaginated. Hagemeyer believes that East German courts were inclined to grant divorces in such cases because the state had an interest only in “healthy” marriages and did not necessarily care which spouse had been at fault for making a particular marital union “unhealthy.” Hagemeyer, *Zum Familienrecht in der Sowjetzone*, 16.

granted, evidence of the marriage's ruin needs to be found—and the desire of one spouse to abandon the marriage does not suffice on its own as evidence.<sup>157</sup>

Revealingly, Grzegorek made no mention whatsoever of older women clinging to meaningless marriages out of financial concerns, nor did she categorically condemn the notion of marriage as a *Versorgungsanstalt* when she wrote that “[i]t is thus not the case that an aging woman who clung faithfully to her marriage would be at the mercy of the wishes of the other spouse.”<sup>158</sup> This might have stemmed from her recognition that a significant number of East German women believed that the new law did not protect their interests as women: “Most likely only men were involved in the drafting of the new [divorce] laws, since these laws have been made only for men.”<sup>159</sup>

Margarete S. was not alone in asking for Hilde Benjamin's protection not only from the husband who had cheated on her, but also from the male lawmakers who could not understand the predicament of a woman in her situation—as Benjamin presumably could. Women like Emma K., whose husband had left her after forty years of marriage, were even more explicit in articulating a concept of gendered rights that they believed should be protected by law: “I too am part of the GDR and of the German working class and assume that I am also entitled to equal rights for women.” She also reminded the Ministry of Justice that Walter Ulbricht had declared marriage to be a lifelong bond in which both partners had equal rights and had exhorted East Germans with the Ninth

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<sup>157</sup> BArch Berlin-Lichterfelde, DP1 SE 0417, Band E3—664-1628/63, letter from Hauptreferentin Grzegorek, MdJ, Berlin, to Margarete S., Oelsnitz, November 29, 1963, unpaginated.

<sup>158</sup> Ibid.

<sup>159</sup> Schneider, *Hausväteridylle*, 215, quoting from BArch Berlin-Lichterfelde, DP1 SE 1168, Maria D., May 21, 1957.

Commandment of Socialist Morality to live a “clean and decent life and to respect one’s family.”<sup>160</sup>

### **The Intervention of Societal Forces: An Effective Marital Prophylactic or Mere Meddling?**

The East German judicial system was to serve not only as a barometer of marital ruin, but also as a prophylactic against it. A key way in which the personal was to become political in the GDR was the widespread application of the SED’s panacea of “societal influence” (*gesellschaftliche Einwirkung*) with the goal of preventing divorce. The Ministry of Justice prognosticated in 1954 that

[t]here are signs that people are no longer just idly standing by out of lurid curiosity when a married male colleague has an affair with a female colleague. Instead, there are indications that in such cases colleagues recognize their duty to point out the reprehensible nature of such behavior.<sup>161</sup>

There was, however, a fair amount of ambivalence about the efficacy of such intervention on the part of the brigades themselves, family court judges, and even high-level officials in Berlin. Like the building of socialism more generally, the attempt to realize brigades’ purported potential was a perpetual work-in-progress that was often more effective in generating rhetoric than in accomplishing anything else. Historians are not the only ones to have pointed out that socialist brigades were imperfect vehicles for the dissemination

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<sup>160</sup> BArch Berlin-Lichterfelde, DP1 SE 3566, vols. 1-2, letter from Emma K., Loburg, to MdJ, Berlin, May 2, 1962, 28 of a section of archival file.

<sup>161</sup> BArch Berlin-Lichterfelde, DO1 14398, Bericht über die Ergebnisse der Diskussion zum Entwurf des FGB auf der Arbeitstagung im MdJ vom 19. Oktober 1954, Anlage: Vorschlag zur Behandlung des Scheidungsrechts, 2 of document.

of official ideology and the promulgation of socialist morality.<sup>162</sup> Jurists sometimes bewailed the inefficacy of brigades in averting marital conflict even as they excoriated their colleagues for not sufficiently involving brigade members as mediators and witnesses in divorce cases.<sup>163</sup> The Ministry of Justice complained in 1965 that “[t]he influence of brigades on family life has gone down in recent years,” although it would have been hard-pressed to identify a golden age during which such influence had been more pervasive or efficacious. Since there was a fine line between judicious societal intervention and mere meddling, Walter Ulbricht felt obliged to insist that it was not the intention of the East German state to meddle unnecessarily in the intimate sphere of familial life.<sup>164</sup>

Officials attributed the inefficacy and inadequacy of intervention by brigades to a number of factors. For one thing, they had to admit that such intervention was bound to fail if it was unwelcome, and this was all too often the case:

Many still cling resolutely to the view that marriage is a private sphere in which no one can intervene. This view, which has existed for centuries, can only

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<sup>162</sup> Thomas Reichel, “‘Jugoslawische Verhältnisse?’—Die ‘Brigaden der sozialistischen Arbeit’ und die ‘Syndikalismus’-Affäre (1959-1962),” in *Herrschaft und Eigen-Sinn in der Diktatur. Studien zur Gesellschaft der DDR*, ed. Thomas Lindenberger (Cologne: Böhlau, 1999), 45-73, here 73; Harsch, “Sex, Divorce, and Women’s Waged Work,” 108; Grandke, “Familienrecht,” 184; Port, “Love, Lust, and Lies under Communism,” 494, fn 52.

<sup>163</sup> Mertens, *Wider die sozialistische Familiennorm*, 31-32. According to Harsch, “[t]he ‘work collective’ typically responded with bewilderment to the order to interfere in a colleague’s private life. [...] A survey of divorce records concluded that collective mediation was typically ‘unsuccessful.’ [...] Typically, [a workplace collective] was comprised of men who, according to a Justice report, ‘do not recognize the necessity of confronting outmoded bourgeois views of marriage and family.’” Harsch, “Sex, Divorce, and Women’s Waged Work,” 108, drawing upon Wilhelm Heinrich, Elfriede Göldner, and Horst Schilde, Richter am Obersten Gericht, “Die Rechtsprechung der Instanzgerichte in Familiensachen,” *Neue Justiz* (1961), 778 and Gerhard Häusler, “Aufgaben des Rechtsanwalts im Eheverfahren,” *Neue Justiz* (1963), 373.

<sup>164</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 1, MdJ, Berlin, “Zu einigen Fragen der Familie in der DDR,” February 4, 1965, 13 of document, 13 of archival file; Schneider, *Hausväteridylle*, 191, fn 42. Ulbricht’s concern for balancing efficacious societal influence with a respect for familial autonomy manifested itself in the practice of the government as a whole, which “pushed for but never insisted on collective intervention.” Harsch, “Sex, Divorce, and Women’s Waged Work,” 109.

gradually be overcome, and all societal forces must work together to make this happen.<sup>165</sup>

This perception persisted among many brigade members as well:

[i]n general, socialist brigades are not fully aware of the extent of their responsibility to ensure the development of socialist morality in familial life. It is often overlooked that the process of developing a new morality for familial life does not proceed without conflict, but that these conflicts do not necessarily have to result in heated arguments. [...] In general, behaviors learned during the socialist work process, such as camaraderie, willingness to help others, a sense of duty, respect for other people, selflessness, and willingness to sacrifice, gradually manifest themselves in familial life as well. This new attitude towards work must necessarily clash with behavioral patterns in familial life that stem from earlier times. It is the responsibility of socialist collectives to make this process a conscious one. Socialist brigades can thus do their part in what all of society must do: ensure the proper socialization (*Vergesellschaftung*) of individuals and families. It is this responsibility that both justifies and obligates collectives to intervene in the interest of families.<sup>166</sup>

In other words, brigades were supposed to serve as the transmission belt that would convey socialist values from the workplace to the domestic realm, but they were not necessarily well suited for doing so.<sup>167</sup> The “relationship of work and home was [to be] one of complementarity, not competition,” since workplace brigades drew upon “typical

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<sup>165</sup> BArch Berlin Lichterfelde, DP1 SE 1491, Teil 2, MdJ, Berlin, Der erreichte Entwicklungsstand im Bereich der Familie und ihre fördernden und hemmenden Einflüsse auf die gesellschaftliche Weiterentwicklung, undated but circa 1964, 18 of document.

<sup>166</sup> BArch Berlin Lichterfelde, DP1 SE 1491, Teil 2, MdJ, Berlin, Der erreichte Entwicklungsstand im Bereich der Familie und ihre fördernden und hemmenden Einflüsse auf die gesellschaftliche Weiterentwicklung, undated but circa 1964, 18 of document.

<sup>167</sup> As Harsch points out, “[i]t is noteworthy that this method of ‘saving’ marriage was almost never prescribed by urban family judges, but often by judges in rural districts. Yet it was in the countryside [in particular] that marital conflict often arose from ‘an understanding of male/female relations that is still far from socialist.’” This mindset was presumably not limited to spouses in troubled marriages, but instead espoused by other collective members as well. Harsch, “Sex, Divorce, and Women’s Waged Work,” 108. As Betts observes, “[t]here were even instances—first starting in the 1960s, but present in the 1970s and 1980s—in which citizens voiced their objections about having their colleagues and neighbours involved in their painful private lives. The effect was to leave couple’s [sic] private lives relatively alone, implying a new respect (or perhaps indifference) towards the private sphere.” I contend that this skepticism about the advisability and efficacy of societal intervention in domestic matters predated the 1970s. Betts, *Within Walls*, 112-114, quotation on 114.

family structures and modes of behavior,” as Annegret Schüle has argued.<sup>168</sup> While the Ministry of Justice proclaimed the existence of a “dialectical relationship (*Wechselverhältnis*) between workplace and familial morality,” it would appear as if the dialectic was not living up to its name, since “[t]he struggle for socialist morality in the workplace does not automatically create the conditions for positive familial morality.”<sup>169</sup>

A brigade’s involvement in an individual’s familial life could take numerous forms,

including small-group and large-group conversations [*Aussprachen*], transferring someone to a different job, and consulting with parents. [...] The socialist brigade intervenes out of the need to protect its own honor, such as when it seeks to break up so-called factory marriages [*Betriebsehen*] and other unclean (*unsauber*) relationships. [...] Sometimes brigades demand that a member clear things up (*klare Verhältnisse*) and feel that divorce is the only way to do this. But this means that the brigade is simply shifting the decision-making burden to a court.<sup>170</sup>

By invoking brigade members’ presumed desire to protect their sense of honor, this report author was implicitly acknowledging they would require a more personal form of motivation than ideological exhortations alone. But she or he also admitted that brigade members might not only act to try to prevent divorce, but also potentially to encourage it.

### **The New 1965 Family Law Code: More of the Same, or a New Beginning?**

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<sup>168</sup> Moeller, “The Elephant in the Living Room,” 238, quoting from Annegret Schüle, *“Die Spinne”*: Die Erfahrungsgeschichte weiblicher Industriearbeit im VEB Leipziger Baumwollspinnerei (Leipzig: Leipziger Universitätsverlag, 2001), 232.

<sup>169</sup> BArch Berlin Lichterfelde, DP1 SE 1491, Teil 2, MdJ, Berlin, Der erreichte Entwicklungsstand im Bereich der Familie und ihre fördernden und hemmenden Einflüsse auf die gesellschaftliche Weiterentwicklung, undated but circa 1964, 20 of document.

<sup>170</sup> *Ibid.*, 19 of document. It was not uncommon for the SED party apparatus to mete out punishments to adulterous spouses outside of a courtroom setting, such as revoked party membership or impediments to vocational advancement; see Wolle, *Aufbruch nach Utopia*, 213.

The chronically high divorce rate and the inability of socialist pedagogical influence to mitigate it did not prevent the Ministry of Justice from boasting that “[m]any West German visitors to the GDR are impressed by every [East German] family’s secure prospects for the future and by the clean and orderly relationships between people that are an expression of the great moral superiority of our social order.” Codifying the Marriage Ordinance’s provisions as part of the new 1965 Family Law Code was part of the East German government’s attempt to ensure that West Germans would continue to be impressed by the alleged superiority of East German family law. This claim to superiority ironically stemmed from the FGB’s goal of preserving marriages through moral pedagogy—an attribute supposedly lacking in its West German counterpart.<sup>171</sup> Even though Article 6 of the West German constitution stipulated that marriage and family were subject to special protection by the state, the FRG’s family law provisions did not even once specify the duties of the state and society to families, according to the East German Ministry of Justice’s critique.<sup>172</sup>

For Paul Betts, however, the 1965 FGB represented a decisive shift in socialist jurisprudence in which the SED sought to extricate itself from its self-assigned obligation to place a socialist imprimatur upon the East German marital relationship:

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<sup>171</sup> In fact, an alteration of family law (*Familienrechtsänderungsgesetz*) in 1961 actually made divorce more difficult to obtain in West Germany; see Sibylle Buske, *Fräulein Mutter und ihr Bastard: Eine Geschichte der Unehelichkeit in Deutschland 1900 bis 1970* (Göttingen: Wallstein, 2004), 211; Christian de Nuys-Henkemann, “‘Wenn die rote Sonne abends im Meer versinkt...’: Die Sexualmoral der fünfziger Jahre,” in *Sexualmoral und Zeitgeist im 19. und 20. Jahrhundert*, eds. Anja Bagel-Bohlan and Michael Salewski (Opladen: Leske + Budrich, 1990), 107-145, here 115.

<sup>172</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 1, MdJ, Berlin, Zentrale Kommission zur Leitung und Koordinierung der Familiengesetzbuchdiskussion, “Die Nationale Bedeutung des Familiengesetzbuchentwurfs und die Lage der Familie in Westdeutschland,” February 1965, 2-3 of document, 22 back side to 23 front side of archival file.

According to the famed paragraph 24 of the [1965 FGB], a marriage could only be dissolved if ‘it has lost its meaning for the spouses, the children and therefore also for society.’ Compare this language with [paragraph 8 of] the 1955 Marriage Ordinance, which held that divorce could only be granted if the marriage ‘had lost its meaning for the spouses, the children and for society.’ The semantic difference at first may seem negligible, yet the clause ‘therefore also for society’ (*und damit auch für die Gesellschaft*) was quite novel and far-reaching. For it implied that the primary meaning of the marriage rested with the couple itself, not with society, thereby challenging the subordination of marriage to social imperatives found in the 1955 Marriage Ordinance. Legally, it suggested that the concerns of the spouses trumped that of the state, opening the door towards separating private domestic problems from state expectations.<sup>173</sup>

The semantic difference is indeed a significant one, but it does not necessarily indicate that the 1965 FGB brought about a fundamental change in the way in which East German courts had been construing a troubled marriage’s “meaning for society” since the issuance of the Marriage Ordinance in 1955. What had mattered to Wächtler of the Ministry of Justice and to many judges in determining a marriage’s value to society as early as 1956 was first and foremost its viability as far as a couple and a couple’s children were concerned—despite the 1955 Marriage Ordinance’s more explicit discursive linkage of marriage to broader societal imperatives than was the case in the 1965 FGB. The FGB’s altered language thus did not augur a fundamental change in jurisprudential practice, but instead reflected the direction that influential interpreters of the law had already taken. Jurists and citizens alike pushed open “[t]he door towards separating private domestic problems from state expectations” earlier than Betts has maintained.

As a whole, the FGB reflected more continuity than discontinuity when it came to divorce law. The Ministry of Justice felt that the Marriage Ordinance’s provisions had proven themselves and “still correspond[ed] with the political and economic situation of

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<sup>173</sup> Betts, *Within Walls*, 107-108; McLellan, *Love in the Time of Communism*, 81; Port, “Love, Lust, and Lies under Communism,” 495; Grandke, “Familienrecht,” 195-196.

the GDR and the state of its ideological development.”<sup>174</sup> Significantly, the Ministry decisively rejected calls in 1965 to offer more generous provisions for alimony for divorced wives who had not participated in the workforce while married.<sup>175</sup>

Where the FGB differed more starkly from existing legal precedent was in its elimination of an explicit condemnation of spouses who felt that their “thoughtless” (*leichtfertig*) attitude towards marriage should not prevent them from being able to obtain a divorce. While the March 1965 FGB draft of § 24, section 1 had retained this condemnation, the October 1965 version of the Code was silent on this subject even though Anita Grandke, one of the GDR’s foremost authorities on the family, strongly believed that such moral censure was still necessary.<sup>176</sup> Instead, drafters of the new law believed that § 1 of the FGB would achieve the same goal by emphasizing spouses’ obligation to adopt a responsible attitude towards marriage and family.<sup>177</sup> Even though the rhetorical means had changed, the ends remained the same: family law was supposed to constitute a transparent reflection of socialist norms. In explaining the intertwining (*Verflechtung*) of family law and morality in the 1965 FGB, the Ministry of Justice opined that

[t]he state cannot achieve many of the ethical norms for behavior contained in the [FGB] draft with compulsory measures. Instead, these norms are directed towards citizens’ consciousness and provide societal forces with guidance [for

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<sup>174</sup> BArch Berlin-Lichterfelde, DO1 14425, MdJ, Berlin, Grundkommission zur Ausarbeitung des FGB, Begründung des Entwurfs des FGB, March 18, 1965, 2 of document.

<sup>175</sup> *Ibid.*, 5 of document. This was despite the partial rehabilitation of the guilt principle by the 1965 FGB, according to which spouses’ moral failings would factor into alimony decisions. Port, “Love, Lust, and Lies under Communism,” 495.

<sup>176</sup> BArch Berlin-Lichterfelde, DO1 14426, MdJ, Berlin, Protokoll der 8. Sitzung der FGB-Grundkommission am 17. November 1964, November 20, 1964, 3 of document.

<sup>177</sup> BArch Berlin-Lichterfelde, DO1 14425, MdJ, Berlin, Grundkommission zur Ausarbeitung des FGB, Begründung der Änderungen des Entwurfs des FGB, October 6, 1965, 6 of document.

enforcing them]. In this way, the characteristic educational function of socialist law becomes readily apparent.<sup>178</sup>

In theory if not necessarily in practice, East German jurisprudence embodied the transformation that Norbert Elias has identified for Western societies more generally, namely the shift from external compulsion to internalization of social discipline.<sup>179</sup> Officials who worked on the FGB draft in 1964 expressed confidence that East Germans were increasingly “observing socialist moral dictates of their own free will” and using them as guidelines for their feelings and actions.<sup>180</sup> From the SED’s perspective, the move away from compulsory measures was precisely what made a socialist polity like the GDR distinct from, rather than analogous to, its capitalist counterpart. The FGB’s ostensible privileging of self-policing over coercion was in line with the larger goals of socialist jurisprudence; while “[b]ourgeois laws were about protecting citizens from the state,” Hilde Benjamin opined, “our laws are about protecting citizens through the state. This needs to be made clear.”<sup>181</sup>

Apparently, this dynamic was insufficiently clear to Auschrat, a member of the Free German Trade Union Federation’s (*Freier Deutscher Gewerkschaftsbund*, or FDGB) Federal Executive Board (*Bundesvorstand*) who had the temerity to suggest that the FGB was not as well-suited as it could have been to fulfilling its educational objectives: “The regulations regarding marriage could stand further elaboration especially

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<sup>178</sup> BArch Berlin-Lichterfelde, DO1 14425, MdJ, Berlin, Grundkommission zur Ausarbeitung des FGB, Begründung des Entwurfs des FGB, March 18, 1965, 1 of document.

<sup>179</sup> Norbert Elias, *The Civilizing Process*, volume 1: *The Development of Manners*, trans. Edmund Jephcott (New York: Urizen Books, 1978).

<sup>180</sup> BArch Berlin-Lichterfelde, DO1 14426, FGB-Unterkommission 4, Arbeitsgruppe Prozess, Berlin, Entwurf: Gesetz über das Verfahren in Familiensachen (Familienprozeßordnung—FPO), March 9, 1964, unpaginated.

<sup>181</sup> BArch Berlin-Lichterfelde, DO1 14426, MdJ, Berlin, Protokoll der 8. Sitzung der FGB-Grundkommission am 17. November 1964, November 20, 1964, 3 of document.

as far as the relationship between state, society, and family was concerned, since this needs to be constantly rethought.” At least within the confines of a ministerial meeting, Benjamin was willing to admit that “[w]e cannot fully meet these expectations since we currently lack sufficient research on family life.”<sup>182</sup> Thus, even the vanguard of the workers’ and peasants’ state did not yet fully understand the obstacles to harmonious family life that persisted in socialist society.

## **Conclusion**

Many East German women during the 1950s and 1960s did not appreciate the socialist vision of gender equality if it meant calling into question the role of the husband as a provider for his wife during and after a marriage. The dominant point of view in the SED dictated that even marriages of long standing should be dissolved if they existed “in name only” regardless of the financial consequences for the spouses involved. But it was difficult for East German legal experts to overlook the fact that adulterous husbands might view this policy as a *carte blanche* to abandon their aging wives in favor of younger, more attractive, and supposedly more “politically advanced” partners. Given the limitations placed upon alimony payments, such husbands would no longer even have to “buy” their way out of their marriages as had been the case in the past, when wives would have expected generous alimony settlements in exchange for their willingness to dissolve a marital bond. Under the GDR’s new divorce law, adulterous husbands could and did obtain divorces and live with or marry their adulterous partners without being

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<sup>182</sup> Ibid., 6 of document. An important impetus for discussing marital and sexual issues more openly and extensively was the SED’s 1963 Youth Communiqué (*Jugendkommuniqué*), which identified “true love” as a prerogative of socialist youth; see Wolle, *Aufbruch nach Utopia*, 216.

burdened by long-term legal obligations to continue to provide sustenance for their ex-wives.<sup>183</sup> But even those officials who sympathized with the plight of older women unaccustomed to workforce participation did not recommend changing the divorce law's provisions regarding alimony. Instead, they felt that the full educational and punitive weight of socialist jurisprudence should come down upon adulterous spouses by inducing them to recognize their responsibility—both personal and societal—to return to their faithful spouses.

As in the case of couples seeking to obtain an exception to the age of marital consent, those who complained that divorce was too easy for adulterous spouses to obtain were imputing to the state a failure to uphold the standards of marital respectability and fidelity that were supposedly the bedrock of socialist familial morality. Given the amount of discretion that judges could exercise in determining justifiable grounds for ending a marriage, divorce cases became a litmus test by which to ascertain the populace's trust in the ability of East German jurists to administer justice impartially, or at least not to substitute their own morality for "socialist" morality. Even though the absolute number of divorces remained quite steady during the first eight years after the issuance of the Marriage Ordinance, the proportion of divorce trials that resulted in the split-up of a marriage—as opposed to an alternative outcome that would result in the preservation of a marital union—did increase. West German propaganda about the supposed hostility of East German socialism to familial integrity further enhanced the widespread perception within the GDR that the introduction of no-fault divorce was facilitating the dissolution of marital bonds. The Ministry of Justice did its best to

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<sup>183</sup> Mertens, *Wider die sozialistische Familiennorm*, 78-79.

counteract this impression by encouraging a hostility to divorce (*Scheidungsfeindlichkeit*) in jurisprudential practice from the 1950s through at least the early 1960s.<sup>184</sup> But the smugness of some SED members and governmental officials who felt that they were above the need to abide by the state's moral injunctions regarding their private lives was apt only to add fuel to the fire of popular discontent.

Mertens has contended that by introducing the new criterion of “meaning for society” in the assessment of marital viability, the SED sought to emphasize the subordination of the marital bond to the state's interest in fostering enthusiasm for work and demographic growth.<sup>185</sup> While Mertens has not gone so far as to maintain that “meaning for society” routinely took precedence over the other two criteria, namely “meaning for the couple” and “meaning for the couple's children,” he has not explored the various ways in which “meaning for society” was construed in jurisprudential practice. He thus allows his readers to assume that the implementation of the Marriage Ordinance's divorce provisions enabled the SED's goal of collapsing state, societal, and familial interests into a single, undifferentiated entity to become social reality.

I would argue, however, that in many (albeit certainly not all) East German divorce cases, the criteria of “meaning for society” and “meaning for the couple and/or children” became more or less synonymous in practice, and that this interpretation of the law held sway for a number of jurists from the moment of the Marriage Ordinance's inception rather than only with the introduction of the FGB in 1965. Since the Marriage Ordinance did not explicitly define what it meant by “meaning for society,” judges often

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<sup>184</sup> Mertens, *Wider die sozialistische Familiennorm*, 30, drawing upon Gesine Obertreis, *Familienpolitik in der DDR 1945-1980* (Opladen: Leske & Budrich, 1986), 232ff.

<sup>185</sup> Mertens, *Wider die sozialistische Familiennorm*, 12, 30.

assumed that if a marriage had lost its meaning for a couple and/or the couple's children, then it had lost its meaning for society—and, by extension, the state—as well. It was precisely because of the extensive leeway that judges had in reaching this determination on a case-by-case basis that socialist views on marriage could encompass petty-bourgeois prejudices and progressive open-mindedness all at once. Even Hilde Benjamin had to admit that the process of codifying socialist marital morality was an ongoing work-in-progress. It was not immediately apparent even to lawyers at the highest levels of the East German government whether an older wife who sought to preserve a troubled marriage deserved praise for her commitment to the “socialist” vision of marriage as a lifelong bond or condemnation for her perpetuation of an outmoded understanding of marriage as a primarily financial arrangement.

The judicial sleight of hand enabled by the Marriage Ordinance's rhetorical prioritization of political and collective interests served to mask a synecdochic relationship between the personal and the political whereby the former not infrequently took precedence over the latter. This tendency might account at least in part for East German demographic patterns during the 1970s and 1980s that observers identified after the fall of the Berlin Wall in 1989. Eva Kolinsky has argued that while “motherhood and employment were there to stay and constituted the core of women's life-course planning[,] [p]artnerships, by contrast, were comparatively fragile and more readily replaced by single parenthood from the outset or after a break-up.”<sup>186</sup> The precipitous rise in the East German divorce rate from 1965 onwards was not merely the result of the

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<sup>186</sup> Kolinsky, “Gender and the Limits of Equality in East Germany,” 110.

courts' declining *Scheidungsfeindlichkeit*,<sup>187</sup> but also of the fact that the frequently maligned “politicization” of marriage as a social institution in the GDR was actually marked by the salience of interpersonal affective considerations in the determination of a marriage's “political” valence.

Second-wave feminists in North America and western Europe have popularized the slogan “the personal is political,” but they did not have exclusive purchase on this idea. Indeed, the mapping of the personal onto the political had already been a facet of marital morality as articulated by East German officialdom and citizens alike during the 1950s. I have thus traced back to the mid-1950s what Paul Betts has characterized as a distinctive feature of East German society that only emerged during the 1960s:

To be sure, the 1960s liberalization of divorce as a constitutive element of a rejuvenated women's movement found expression across the industrialized world at the time. But given the cold war setting, the lack of any real public sphere, and the SED's ideological support of sexual equality, GDR divorce courts became the arena in which the feminist crusade of the “personal is the political” took on its most popular and potent expression. [...] More than anywhere else in the GDR, divorce courts brought the private sphere to public attention, revealing both the hopes and limits of the socialist project as a full-scale revolution of social relations, as well as the determination on the part of East German citizens to define and defend private life.<sup>188</sup>

This process did not entail a conflation of the personal and political in which the mapping of the political onto the personal caused the latter to disappear in significance. Nor was it yet another symptom of the dissolving of socialist society into the state one couple at a time. Instead, it constituted an implicit recognition of the importance of interpersonal affective bonds as a building block (*die kleinste Zelle*) of capitalist and socialist polities

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<sup>187</sup> Mertens, *Wider die sozialistische Familiennorm*, 44.

<sup>188</sup> Betts, *Within Walls*, 115.

alike. And it was the Marriage Ordinance of 1955 that West German observers criticized for having reduced East German familial life to yet another transmission belt for socialist ideology that actually hastened the proliferation of a “cultural language” of sex—a discourse that encompassed both “traditional” and “non-traditional” views about marital morality.

## CHAPTER 6. A PALIMPSEST OF THE WEIMAR SEX REFORM MOVEMENT? RELATIONSHIP COUNSELING DURING THE 1960s

“When the doctor has nothing more to say, the socialist must take his place.” (Wilhelm Reich, 1929)<sup>1</sup>

The *Peanuts* cartoon character Lucy van Pelt is known for her largely futile attempts to attract advice seekers other than her habitual visitor, Charlie Brown, to a spartan booth from which she offers “psychiatric help” for five cents. The East German government, which had been largely averse to the remnants of the Weimar-era sex reform movement, was poised in the mid- to late 1960s to revive one of its most salient legacies—providing an institutional forum for imparting knowledge about sexuality, family planning, and felicitous married life. But East German officials would likely have empathized with Lucy’s plight given the quite modest success of their efforts. While the number of clinics increased quite rapidly as per the stipulation of the new Family Law Code (FGB) of December 20, 1965, the number of advice seekers at many counseling centers did not. As Atina Grossmann has observed for the immediate postwar period, “after twelve years of interventionist Nazi racial hygiene programs, women were as suspicious of state-provided sex and procreative advice as they were of the recriminalization of abortion.” This chapter will demonstrate that reservations about

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<sup>1</sup> Wilhelm Reich, “Erfahrungen und Probleme der Sexualberatungsstellen für Arbeiter und Angestellte in Wien,” *Der sozialistische Arzt* 5 (1929), 98-102, here 101-102, as quoted in Karl Fallend, Bernhard Handlbauer, Werner Kienreich, Johannes Reichmayr, and Marion Steiner, “Psychoanalyse bis 1945,” in *Geschichte der deutschen Psychologie*, eds. Mitchell Ash and Ulfried Geuter (Opladen: Westdeutscher Verlag, 1985), 113-145, here 131-132.

premarital counseling and marital therapy lingered among East German citizens and lower-level governmental functionaries alike.<sup>2</sup>

In hearkening back to the palimpsest of the Weimar sex reform movement, the SED largely ignored the ways in which relationship counseling had undergone a drastic shift in priorities under the discriminatory and genocidal form of *Bevölkerungspolitik* (population policy) promulgated by the National Socialist regime. Neither “ideological” nor “scientific” approaches to counseling had been untainted by Nazism’s nefarious intentions. Counselors nonetheless set themselves the task of convincing a wary populace that East German marriage counseling was “something quite different from the forced counselling and eugenic restrictions on marriage imposed by the Nazis.”<sup>3</sup> Because of the need to overcome this legacy, efforts to develop a workable amalgam of socialist ideology on the one hand and scientific expertise on the other in East German relationship counseling were particularly fraught.

Conflicting methodologies and goals in marital therapy and premarital education were not unique to the GDR. Relationship counseling centers originally emerged from the ferment accompanying the development of the sciences of the self around the turn of the twentieth century.<sup>4</sup> Also influential were the concomitant rise of the welfare state and the profession of social work, feminist activism around questions of motherhood, debates about contraception and abortion, demographic concerns, eugenics, social hygiene, and

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<sup>2</sup> Atina Grossmann, “Pronatalism, Nationbuilding, and Socialism: Population Policy in the SBZ/DDR, 1945 to 1960,” in *Between Reform and Revolution: German Socialism and Communism from 1840 to 1990*, eds. David E. Barclay and Eric D. Weitz (New York: Berghahn, 1998), 443-465, here 457.

<sup>3</sup> Annette Timm, “Guarding the Health of Worker Families in the GDR: Socialist Health Care, *Bevölkerungspolitik*, and Marriage Counselling, 1945-1970,” in *Arbeiter in der SBZ-DDR*, eds. Peter Hübner and Klaus Tenfelde (Essen: Klartext, 1999), 463-495, here 488.

<sup>4</sup> The term “sciences of the self” is inspired by Greg Eghigian, Andreas Killen, and Christine Leuenberger, “Introduction: The Self as Project: Politics and the Human Sciences in the Twentieth Century,” *Osiris* 22, no. 1 (2007), 1-25.

advice literature published by such internationally renowned figures as Ellen Key, Marie Stopes, and Theodor van de Velde. Scholars have typically focused on the imbrication of marital counseling with the demographic and eugenic concerns of population policy, and on the ways in which relationship counseling provided a vector for the welfare state's exertion of social control along Foucaultian lines.<sup>5</sup>

The palimpsest of Weimar-era relationship counseling had many authors whose concerns were not limited to population policy or social control. Building upon the establishment of the League for the Protection of Mothers (*Bund für Mutterschutz*) by Helene Stöcker in 1905 and the founding of the Institute for Sexual Research (*Institut für Sexualwissenschaft*) by Magnus Hirschfeld in 1919, psychoanalyst Wilhelm Reich, a member of the SPD, and Dr. Marie Frischauf, a member of the KPD, launched the Socialist Society for Sexual Counseling and Sexual Research (*Sozialistische Gesellschaft für Sexualberatung und Sexualforschung*) in 1928. By 1929, they had established six counseling centers, published sexual education brochures in large quantities, and

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<sup>5</sup> Important works for the German context include Atina Grossmann, *Reforming Sex: The German Movement for Birth Control and Abortion Reform, 1920-1950* (New York: Oxford University Press, 1995); Annette F. Timm, *The Politics of Fertility in Twentieth-Century Berlin* (New York: Cambridge University Press, 2010); Annette F. Timm, "The Legacy of *Bevölkerungspolitik*: Venereal Disease Control and Marriage Counselling in Post-WWII Berlin," *Canadian Journal of History/Annales canadiennes d'histoire* 33 (1998), 173-214; Cornelia Osborne, *The Politics of the Body in Weimar Germany: Women's Reproductive Rights and Duties* (Ann Arbor: University of Michigan Press, 1992); Alfons Labisch, "'Hygiene ist Moral—Moral ist Hygiene': Soziale Disziplinierung durch Ärzte und Medizin," in Christoph Sachße and Florian Tennstedt (eds), *Soziale Sicherheit und soziale Disziplinierung: Beiträge zu einer historischen Theorie der Sozialpolitik* (Frankfurt am Main: Suhrkamp, 1986); Kristine von Soden, *Die Sexualberatungsstellen der Weimarer Republik 1919-1933* (Berlin: Edition Hentrich, 1988); Young-Sun Hong, *Welfare, Modernity, and the Weimar State, 1919-1933* (Princeton: Princeton University Press, 1998); Paul Weindling, *Health, Race, and German Politics between National Unification and Nazism, 1870-1945* (New York: Cambridge University Press, 1989), 424-429; Gabriele Czarnowski, *Das kontrollierte Paar: Ehe- und Sexualpolitik im Nationalsozialismus* (Weinheim: Deutscher Studien Verlag, 1991); Egbert Klautke, "Rassenhygiene, Sozialpolitik und Sexualität: Ehe- und Sexualberatung in Deutschland 1918-1945," in *Von Lust und Schmerz: Eine historische Anthropologie der Sexualität*, eds. Claudia Bruns and Tilmann Walter (Cologne: Böhlau, 2004), 293-312.

organized public lectures on the topic of sexuality.<sup>6</sup> Other left-wing purveyors of sexual counseling including Max Hodann, Friedrich Wolf, and Else Kienle also established clinics beyond the purview of the state during the 1920s and focused their efforts on dispensing contraception and advocating for the decriminalization of abortion. As Edward Ross Dickinson points out, “while most of the medical establishment opposed the widespread use of contraceptives [during the 1920s], the popular movement [for more widespread reliance upon birth control] garnered critical support from radical socialists within the medical profession.”<sup>7</sup> It was because of this support that Stöcker was able in 1928 to convene the first seminar to provide training in contraceptive methods for doctors working in sexual and marital counseling.<sup>8</sup>

There remained, however, a profound ambivalence about birth control even on the left, since the “adoption of contraceptive techniques by proletarians could easily lead them to a resigned acceptance of the capitalist system.”<sup>9</sup> For his part, Lenin believed that women wanted to have numerous children regardless of the political context in which they found themselves and that use of contraception signaled not so much acceptance of capitalist oppression as it did the emulation of “bourgeois defeatism.”<sup>10</sup> Like skeptics

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<sup>6</sup> Karl Fallend, Bernhard Handlbauer, Werner Kienreich, Johannes Reichmayr, and Marion Steiner, “Psychoanalyse bis 1945,” in *Geschichte der deutschen Psychologie*, eds. Mitchell Ash and Ulfried Geuter (Opladen: Westdeutscher Verlag, 1985), 113-145, here 131.

<sup>7</sup> Dickinson, “Biopolitics, Fascism, Democracy,” 42-43.

<sup>8</sup> Czarnowski, *Das kontrollierte Paar*, 90.

<sup>9</sup> Gert Hekma, Harry Oosterhuis, and James Steakley, “Leftist Sexual Politics and Homosexuality: A Historical Overview,” *Journal of Homosexuality* 29, nos. 2-3 (1995), 1-40, here 14. Weimar-era lay sex reform leagues lamented the fact that “[c]learly, lay sex reform’s major appeal was the services—information and products—it provided, and not the opportunity for political organization.” Grossmann, *Reforming Sex*, 23.

<sup>10</sup> Blanche Wiesen Cook, “Feminism, Socialism, and Sexual Freedom: The Work and Legacy of Crystal Eastman and Alexandra Kollontai,” in *Women in Culture and Politics: A Century of Change*, eds. Judith Friedlander, Blanche Wiesen Cook, Alice Kessler-Harris, and Carroll Smith-Rosenberg (Bloomington: Indiana University Press, 1986), 358-375, here 373.

across the political spectrum, some on the left also worried that use of birth control might result in a “harmful loss of self-discipline and social responsibility.”<sup>11</sup>

Germans of a politically more conservative bent had quite different priorities when it came to relationship counseling. Indeed, as early as 1922, the Prussian welfare ministry called for compulsory premarital health assessments to prevent the birth of purportedly genetically compromised children. While such exams remained voluntary for the duration of the Weimar Republic despite repeated legislative attempts to make them mandatory, eugenically oriented marital counseling did become more widely available; between 1926 and 1930, for instance, welfare ministry officials established 200 counseling centers in Prussia.<sup>12</sup> This eugenically informed strategy, however, proved to be an “abject failure,” since

[t]he majority of those who sought out the counseling clinics were not affianced couples concerned about the quality of their prospective offspring, but unmarried couples seeking advice on and assistance with fertility control. These were, in other words, people who wanted to avoid having babies at all. In fact, since many eugenicists believed that the forethought required for fertility limitation was evidence of mental and hence eugenic superiority, the counseling clinics could easily be seen as having achieved exactly the opposite of what their creators intended.<sup>13</sup>

In fact, demand for birth control was so great that some state-run counseling centers joined their private left-wing counterparts in dispensing contraception, despite the

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<sup>11</sup> Hekma, Oosterhuis, and Steakley, “Leftist Sexual Politics,” 14.

<sup>12</sup> Dickinson, “Biopolitics, Fascism, Democracy,” 11-15; Czarnowski, *Das kontrollierte Paar*, 26, 74-75.

<sup>13</sup> Dickinson, “Biopolitics, Fascism, Democracy,” 14. Along similar lines, Egbert Klautke argues that Weimar-era counseling centers run by sex reformers who distributed contraception were more popular than their more eugenically focused state-run counterparts. Klautke, “Rassenhygiene, Sozialpolitik und Sexualität,” 302. See also Ilona Stölken, “‘Komm, laß uns den Geburtenrückgang pflegen!’: Die neue Sexualmoral der Weimarer Republik,” in *Sexualmoral und Zeitgeist im 19. und 20. Jahrhundert*, eds. Anja Bagel-Bohlan and Michael Salewski (Opladen: Leske + Budrich, 1990), 83-105, here 99, 101-102; Grossmann, *Reforming Sex*, 10-11.

former's avowedly pronatalist orientation.<sup>14</sup> Thus the popularity of contraceptive advice in GDR counseling centers was certainly not without historical precedent. Curiously, Paul Betts has maintained that "German marriage counselling centres were originally creatures of the Weimar Republic's political conservatives, who believed that public health and well-being trumped individual interests, a view that often dovetailed with the advocacy of eugenics and racial hygiene at the time."<sup>15</sup> This analytical vantage point ignores the prominent role played in Weimar-era relationship counseling not only by left-wing doctors, but also by religious institutions with motivations that cannot be subsumed under right-wing eugenic thought.

Like historians who have studied the relationship between modernity, social control, science, eugenics, and genocide in the German context more generally, scholars who have focused on relationship counseling have sought to discern elements of continuity and discontinuity at the key historical turning points of 1933 and 1945. Michelle Mouton argues that despite the commonly held goals of fostering families and encouraging procreation during both the Weimar Republic and the Third Reich, the racialist orientation of Nazi-era family policy represented a more fundamental break from its forebear than other scholars, intent upon demonstrating lines of continuity particularly

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<sup>14</sup> Czarnowski, *Das kontrollierte Paar*, 74. Michelle Mouton reminds us, however, that the number of birth control-dispensing doctors in state-run clinics remained small: "[f]ar from making sex reformers' clinics obsolete [during the Weimar era], doctors in the state clinics largely obeyed their mandate and refused to distribute (or discuss) contraceptives, so many women preferred lay clinics that provided contraceptive information." Michelle Mouton, *From Nurturing the Nation to Purifying the Volk: Weimar and Nazi Family Policy, 1918-1945* (New York: Cambridge University Press, 2007), 45. On this point, Mouton is in concurrence with Atina Grossmann, who contends that "[i]t mattered whether one went to a state-sponsored eugenic counseling center and did not get birth control advice, or went to a sex reform-oriented center and walked home with a diaphragm or spermicidal suppositories, even if both those actions were justified in a similar language embedded in the motherhood-eugenics consensus." Grossmann, *Reforming Sex*, 75.

<sup>15</sup> Paul Betts, *Within Walls: Private Life in the German Democratic Republic* (New York: Oxford University Press, 2010), 102.

in terms of eugenic thought before and after 1933, have acknowledged.<sup>16</sup> But she also maintains that a significant degree of continuity did exist in the extent to which implementation of family policy on the local level could mitigate its ultimate impact. In her pioneering study of the development of relationship counseling into the post-1945 era, Annette Timm has demonstrated that where “legal latitude” existed, the local provision of health and welfare services in the nascent GDR continued to exert a decisive influence over the contours of family policy even as the procreative imperative of centrally directed population policy remained strong.<sup>17</sup>

But to what extent were social discipline and population policy the overriding factors in prompting the proliferation of relationship counseling centers in the GDR beginning with the issuance of the new Family Law Code in 1965? Periodical articles, discussions among state officials, surveys of potential advice seekers, and reports on the establishment and activities of marital and family counseling centers (*Ehe- und Familienberatungsstellen*, or EFB, under the jurisdiction of the Ministry of Justice) and marital and sexual counseling centers (*Ehe- und Sexualberatungsstellen*, or ESB, under the jurisdiction of the Ministry of Health), both of which were (ideally) supposed to exist in every district of the GDR, certainly reveal pretensions to social control and the existence of demographic concerns. From the SED’s perspective, ensuring a high birth rate was of great importance because “[w]ith a minimal expenditure in money and effort” it would offer “proof of the superior security, happiness and fecundity of the socialist state.”<sup>18</sup> But as Donna Harsch has pointed out, “[t]he pro-natalist impulse had not died

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<sup>16</sup> Mouton, *From Nurturing the Nation to Purifying the Volk*, 3, 15, 18.

<sup>17</sup> Timm, “Legacy of *Bevölkerungspolitik*,” 179; Timm, *Politics of Fertility*, 3, 239.

<sup>18</sup> Timm, “Guarding the Health of Worker Families,” 483.

but it had experienced a mutation: the ‘reasonable’ decrease in the number of births from 1963 to 1969 was 79 percent!”<sup>19</sup> The EFB was not supposed to be a short-term appendage of the local court or a superficial panacea for marital discord; instead, the SED intended it to be the primary institutional venue for helping the populace develop “socialist” familial relationships.<sup>20</sup> According to Paul Betts, “marriage counselling centers [along with East German family courts] became places ‘to mediate between the private realm of sexuality and the more public function of families in the socialist state.’”<sup>21</sup>

To be sure, the GDR was a polity in which terms like “asociality” and “social hygiene” had much greater purchase than “sex reform” did.<sup>22</sup> The SED’s loudly trumpeted antifascism did not, apparently, entail a commitment to reviving institutions such as Magnus Hirschfeld’s Institute for Sexual Science, which had been among the first targets of the Nazi government’s destructive zeal in 1933.<sup>23</sup> And given the massive exodus particularly of younger East Germans before the building of the Berlin Wall in 1961 and the decidedly lackluster birthrate thereafter, the SED had good reason to be

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<sup>19</sup> Donna Harsch, “Society, the State and Abortion in East Germany, 1950-1972,” *American Historical Review* 102, no. 1 (February 1997), 53-84, here 81.

<sup>20</sup> BArch Berlin-Lichterfelde, DP1 VA 1757, Ministerium der Justiz (hereafter MdJ), Hauptabteilung (hereafter HA) IV, Berlin, Bericht über den Stand der Bildung und Tätigkeit der Ehe- und Familienberatungsstellen in den Bezirken und Kreisen, January 16, 1969, 11 of document, 124 of archival file, emphasis in the original.

<sup>21</sup> Betts, *Within Walls*, 114.

<sup>22</sup> Annette Timm points out that the GDR was alone in the Soviet Bloc in creating an institutional framework for the discipline of social hygiene, which had been banned in the Soviet Union in 1941. Soviet authorities had deemed it superfluous given the USSR’s triumph over social inequality. For the SED, however, harnessing the Weimar-era tradition of left-wing social hygiene “helped legitimate the goals of [its own] population policy and hide any similarities with Nazi goals or means.” Timm, “Guarding the Health of Worker Families,” 471-472.

<sup>23</sup> Hans-Georg Stümke, *Homosexuelle in Deutschland: Eine politische Geschichte* (Munich: C. H. Beck, 1989), 102.

worried about the GDR's demographic future.<sup>24</sup> In October 1965, Dr. Lungwitz projected that the GDR's population would increase only incrementally from 17.25 million in 1970 to 17.67 million in 1980 and that only after 1980 would East Germany have a "normal population structure."<sup>25</sup> But one can also discern a host of other preoccupations and aspirations that are not reducible to a "primacy of demographic concerns."<sup>26</sup> Indeed, it is striking how *infrequently* demographic concerns manifested themselves in the conceptualization and implementation of East German relationship counseling. In this particular aspect of policy, "even more important than demography was the regime's abiding anxious desire to bind young people emotionally to the socialist project."<sup>27</sup>

By catering to prospective visitors' needs and desires rather than merely serving as a transmission belt of socialist familial dogma, state-run relationship counseling centers could foster popular affinity for other facets of SED rule. As the legacy of progressive sex reform of the 1920s had demonstrated, marital counseling was most popular when it met the demand for contraceptive advice and devices—and this continued to be the case in East Germany. As with the decriminalization of consensual adult male same-sex sexual acts, then, the influence of progressive sex reform endured

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<sup>24</sup> A 1965 comparison with Bulgaria, the Federal Republic of Germany, France, Great Britain, Poland, Sweden, and the Soviet Union showed that the GDR had the lowest number of births in excess of deaths (3.8 per 1000 members of the population); see BArch Berlin-Lichterfelde, DP1 VA 1445, Band 1, "Zu einigen Fragen der Familie in der DDR," February 4, 1965, 7 of document, 7 of archival file.

<sup>25</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 2, Beyer, Vermerk betr. 1. Rostocker Fortbildungstage über Probleme der Ehe- und Sexualberatung vom 22. bis 24. Oktober 1965, MdJ, HA Recht, Berlin, October 27, 1965, 3 of document, 119 of archival file.

<sup>26</sup> The term "primacy of demography" is inspired by Timothy Mason's coinage "the primacy of politics." See Timothy Mason, *Nazism, Fascism and the Working Class*, ed. Jane Caplan (New York: Cambridge University Press, 1995).

<sup>27</sup> Dagmar Herzog, *Sex after Fascism: Memory and Morality in Twentieth-Century Germany* (Princeton, NJ: Princeton University Press, 2005), 187.

even when it was not explicitly acknowledged as such.<sup>28</sup> And the legacy of the Weimar-era relationship between sex reform, sexology, and left-wing politics also manifested itself in intra-governmental East German turf wars between proponents of ideological as opposed to medical forms of counseling.

Donna Harsch has posed the question of historical continuity and discontinuity in relationship counseling in a way that forces one to look beyond the fulcrum of 1945. She has suggested that the revival of marriage counseling in the GDR during the mid-1960s was an “individualistic elixir” intended to address the failure of intervention on the part of such “societal forces” (*gesellschaftliche Kräfte*) as neighbors and brigade members at the workplace in saving marriages:

Over time, East German “healthcare consumers” drove marriage counseling toward greater individualization, professionalization, and specialization than the regime originally envisioned. Though the mix of methods used to “fix” troubled marriages remained more communal, traditional, and state-directed than in the West, the state’s understanding of marital conflict became less ideological, moralistic, and social, and more pragmatic, individual, and psychological.<sup>29</sup>

While Harsch has argued that it was East German “healthcare consumers” who pushed marital counseling away from collective and towards “individualizing” methods, any “individualization” that took place also reflected to a significant extent the intentions of high-level officials. While official documents referred to counselors as being members of a collective, counseling sessions themselves were typically supposed to be one-on-one unless consultation with a spouse or a counselor with a different kind of expertise was

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<sup>28</sup> For more on the role of progressive sex reform in shaping East German scientific and policy debates about the legal status of homosexuality, see Chapters 2 and 3.

<sup>29</sup> Donna Harsch, *Revenge of the Domestic: Women, the Family, and Communism in the German Democratic Republic* (Princeton, NJ: Princeton University Press, 2007), 290.

warranted.<sup>30</sup> To be sure, ESB and EFB counselors never dispensed entirely with collective intervention as a therapeutic tool.<sup>31</sup> Rather than adhering to a clear dichotomy between “individualized” and “collective” approaches to marital therapy, however, many counseling centers drew upon methods that spanned this divide.

It was thus not the case that “modern,” individualizing courses of treatment usurped “traditional,” communal forms of intervention, as Harsch has argued, but instead a specifically East German conception of the expert’s role in mediating relationships—between the sexes, within the family, and among members of a collective—was emerging. This phenomenon stemmed to a significant extent from what Greg Eghigian has called the “psychologization of the socialist self” that began in the GDR during the late 1950s.<sup>32</sup> The key shift that Eghigian has identified was the recognition on the part of East German authorities that socialist ideology on its own would not suffice in bringing about the ideal societal conditions that supposedly only socialism could produce. As a

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<sup>30</sup> BArch, DP1 VA 1446, Entwurf von Richtlinien über die Arbeitsweise und die Organisation von Ehe- und Sexualberatungsstellen in der Deutschen Demokratischen Republik, AG Ehe und Familie in der Sektion Hygiene und Gesundheitsschutz der Frau der Gesellschaft für Gesundheitsschutz (hereafter GfG) in der Deutschen Gesellschaft für die gesamte Hygiene, September 26, 1966, 7 of document, 196 of archival file. Some counseling centers like the EFB in Zwickau, however, provided consultations involving the entire counseling collective as a rule and only granted one-on-one counseling sessions upon the request of advice-seekers; see BArch Berlin-Lichterfelde, DP1 VA 1757, Kuckoreit, Direktor des Bezirksgerichts (hereafter BG) Karl-Marx-Stadt, to MdJ, HA IV, Berlin, Betreff: Ehe- und Familienberatungsstellen, September 9, 1968, 2 back side of document, 70 back side of archival file; Lykke Aresin, *Sprechstunde des Vertrauens: Fragen der Sexual-, Ehe- und Familienberatung*, 2nd ed. (Rudolstadt: Greifenverlag, 1968), 22.

<sup>31</sup> BArch Berlin-Lichterfelde, DP1 VA 1757, Band 5, Bericht über den Erfahrungsaustausch der in den Ehe- und Familienberatungsstellen tätigen juristischen Mitarbeiter aus den Bezirken Frankfurt/Oder, Halle und Karl-Marx-Stadt, July 1970, 10 of document, 198 of archival file.

<sup>32</sup> Greg Eghigian, “The Psychologization of the Socialist Self: East German Forensic Psychology and Its Deviants, 1945-1975,” *German History* 22, no. 2 (2004), 181-205. For Stefan Busse, the rehabilitation of psychology as a discipline that was useful rather than hostile to socialism occurred with the more general valorization of professional expertise under the New Economic Plan (*NÖSPL*) of the 1960s; see Stefan Busse, *Psychologie in der DDR: Die Verteidigung der Wissenschaft und die Formung der Subjekte* (Weinheim and Basel: Beltz Verlag, 2004), 303. For Betts, this newfound appreciation for social scientific knowledge also coincided with “the emergence of the family as an object of state intervention” in the mid- to late 1960s; Betts, *Within Walls*, 184.

report designed to lay the groundwork for expanding the network of counseling centers pointed out, “[t]he development of the socialist family does not spontaneously take place on the basis of socialist relations of production.”<sup>33</sup> And even though educating the populace was one of the primary goals of socialist jurisprudence, the new FGB could not “automatically solve all marital and familial problems” on its own either.<sup>34</sup>

The Ministry of Justice nonetheless sought to put a positive spin on this prognosis; it expressed confidence that “[n]ot all conflicts are negative phenomena; indeed, some constitute signs of the struggle to establish new kinds of familial relationships.”<sup>35</sup> The role of the psychological professional in the GDR was thus paradoxically to draw upon a “bourgeois” legacy of expert knowledge about sexual and marital behavior to wean the populace away from outdated “bourgeois” attitudes about intimate relationships.<sup>36</sup> The East German relationship counselor was to do so in a way that cultivated East German laypersons’ trust in both a seemingly non-ideological form of

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<sup>33</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 1, “Zu einigen Fragen der Familie in der DDR,” February 4, 1965, 13 of document, 13 of archival file. East German authorities were thus rediscovering the insight of Lenin, namely that socialist consciousness did not manifest itself spontaneously, but instead had to be cultivated through education and propaganda over time; see Busse, *Psychologie in der DDR*, 227. But Busse argues that the East Germans went further than Lenin in recognizing that education and propaganda would not suffice unless they had a scientific basis; Busse, *Psychologie in der DDR*, 230.

<sup>34</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 2, “‘Gut beraten in die Ehe,’ Wir beenden unsere Leseraussprache ‘Heiraten—aber wann?’” *Neues Deutschland*-Gespräch mit Dr. Alfred Geißler, Rostock, *Neues Deutschland*, supplement no. 33, August 14, 1965, 4 of document, 92 of archival file.

<sup>35</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 1, “Zu einigen Fragen der Familie in der DDR,” February 4, 1965, 2 of document, 2 of archival file.

<sup>36</sup> Psychologically informed relationship counseling did not immediately take root in West Germany, either. According to Annette Timm, it was the influence of both Weimar-era sexology and American psychology that proved to be pivotal in gradually allowing psychological marital counseling to take precedence in West Berlin over its eugenic counterpart. Timm, *The Politics of Fertility*, 255-256. While the question of whether to administer premarital health exams of a eugenic nature did come up from time to time in East German sources from the 1940s and 1950s, often in connection with a desire to prevent the spread of syphilis from mother to child, the issue was essentially moot in the GDR by the late 1950s, if not earlier.

expertise *and* the providence of socialist humanism courtesy of the ideologically stalwart SED.<sup>37</sup>

The “psychologization of the socialist self” was not merely a top-down project, and relationship counselors often served as its public face. One of the most popular books ever published in the GDR was Siegfried Schnabl’s relationship advice manual *Mann und Frau intim (Man and Woman Intimately)*.<sup>38</sup> By 1972, the Ministry of Justice saw to it that the library of every district court (*Kreisgericht*) had a copy of *Mann und Frau intim* and expected that all judges involved in EFB counseling would have read it.<sup>39</sup> Schnabl also ran a popular counseling center at the Erlabrunn Miners’ Hospital. The popularity of Schnabl’s counseling, whether delivered in person or in written form, demonstrates that the “psychologization of the socialist self” was catalyzed by a change in governmental priorities *and* selectively apportioned popular demand. In relationship counseling as in other facets of life in the GDR, “the fact that SED ideology perpetuated the myth of perfect harmony between state objectives and individual behavior actually

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<sup>37</sup> The inclination to fuse medical expertise with ideological dictates was not merely a sign of the SED’s hegemonic pretensions. It also had an important precedent in the German sex reform movement of the 1920s. As Atina Grossmann perspicaciously argues, “in [Weimar] Germany, medicalization was not entirely synonymous with professionalization, insofar as most of the professionals involved were radicals on the margins of their own medical establishment and understood themselves to be working in the service of the working-class movement. Radical professionals were in many ways the critical group in the German sex reform movement; far from pressing depoliticization, they saw politicization as going hand in hand with medicalization.” Grossmann, *Reforming Sex*, 44. In a state-socialist polity such as the GDR, however, doctors would presumably no longer have had any motivation to become politically radicalized for the reasons that had mobilized doctors working under capitalism—or at least this was what the SED would have liked to think. The synthesis of medicine and politics would thus have to become a matter of routinized conviction rather than emotionally charged activism.

<sup>38</sup> Siegfried Schnabl, *Mann und Frau intim: Fragen des gesunden und des gestörten Geschlechtslebens*, 5<sup>th</sup> ed. (Berlin: Verlag Volk und Gesundheit, 1972 [1969]). The observation regarding its popularity comes from Herzog, *Sex after Fascism*, 203.

<sup>39</sup> BArch Berlin-Lichterfelde, DP1 VA 3007, Band 1.3561, draft of letter from MdJ, Berlin to Lykke Aresin, Universitäts-Frauenklinik in Leipzig, undated but ostensibly from 1972, unpaginated document, 19 back side of archival file.

created space for debate and negotiation about the formulation and implementation of specific policies.”<sup>40</sup>

This chapter begins with an account of relationship counseling in the GDR prior to the issuance of the FGB in 1965, with an emphasis on the role played by abortion law and the status of sexual pedagogy. On the eve of the rapid expansion of the network of EFBs and ESBs during the mid- to late 1960s, the Ministry of Justice took the pulse of public opinion and thus was able to anticipate many of the problems that marital therapy clinics would face, but it was all too often powerless to rectify them. This was because the SED’s self-ascribed responsibility to impart socialist familial morality exposed a paucity of trust on the part of the populace and revealed the difficulties of mediating between the public and private realms under state socialism. The most popular counseling centers succeeded in satiating the desire for outlets of sexual discourse and exerted a decisive influence on the changing climate of professional opinion that preceded the decriminalization of abortion and free distribution of contraception on March 9, 1972. The next section examines the ways in which disputes over professional preeminence between the Ministry of Health and the Ministry of Justice and the recalcitrance of local officials averse to fulfilling their responsibilities to support local counseling centers demonstrated the limits of “democratic centralism” in practice. Despite these quandaries, the SED pointed to the network of ESBs and EFBs as a point of pride both domestically and internationally and used them as a platform for securing the GDR’s entry into a family planning network that transcended the Cold War divide. The 1970s and 1980s witnessed both retrenchment and innovation on the part of the GDR’s

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<sup>40</sup> Timm, *Politics of Fertility*, 259.

relationship counselors as they sought to keep the spirit of sex reform alive in a climate of increasing financial austerity.

### **Relationship Counseling in the GDR Prior to 1965**

In an effort to counteract the rapid spread of venereal disease during the tumultuous aftermath of the Second World War, military authorities and the German Central Administration for Healthcare in August 1946 directed health officials in the Soviet Occupation Zone to establish marital and sexual counseling centers.<sup>41</sup> Many of these clinics ceased operation during the early 1950s, however, due to the rapidly declining demand for their services.<sup>42</sup> One reason for this decline may have been the rapidly dwindling availability of legal abortion once the GDR was formally established in 1949. In response to the large number of rapes of East German women by Soviet soldiers during the occupation period, authorities in 1946 revoked the draconian National Socialist anti-abortion law of 1941 and partially suspended enforcement of § 218 (the anti-abortion statute that predated Nazi rule) to allow for abortions on the basis of a selective application of the “social indication” beginning in 1947.<sup>43</sup> In other words,

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<sup>41</sup> Timm, “Guarding the Health of Worker Families,” 486.

<sup>42</sup> Timm, “Legacy of *Bevölkerungspolitik*”; “Das Interview,” with Karin Langner, conducted by Annegret Hofmann, *Deine Gesundheit* 10 (October 1984), 318; Harsch, *Revenge of the Domestic*, 223; Donna Harsch, “Sex, Divorce, and Women’s Waged Work: Private Lives and State Policy in the Early German Democratic Republic,” in *Gender Politics and Everyday Life in State Socialist Eastern and Central Europe*, eds. Shana Penn and Jill Massino (New York: Palgrave Macmillan, 2009), 97-113, here 102. Lykke Aresin, one of the GDR’s foremost relationship counselors, later admitted the rapid dissolution of most of the early ESBs in the GDR without speculating on the reason for their demise: Aresin, *Sprechstunde des Vertrauens*, 12-13.

<sup>43</sup> Daphne Hahn, *Modernisierung und Biopolitik: Sterilisation und Schwangerschaftsabbruch in Deutschland nach 1945* (Frankfurt am Main: Campus Verlag, 2000), 196; Günter Grau, “Sozialistische Moral und Homosexualität: Die Politik der SED und das Homosexuellenstrafrecht 1945 bis 1989—ein Rückblick,” in *Die Linke und das Laster: Schwule Emanzipation und linke Vorurteile*, ed. Detlef Grumbach (Hamburg: MännerschwarmSkript Verlag, 1995), 85-141, here 88; Harsch, “Society, the State, and Abortion,” 56-57.

carrying to term a pregnancy that resulted from an act of violence perpetrated by someone of non-German ethnicity was effectively (re)interpreted as a form of social hardship, even if authorities did not make the rationale behind this interpretation explicit.<sup>44</sup> This was far from a return to the more progressive legislative climate of the Weimar government, which had mitigated punishments for women by converting abortion from a crime into a misdemeanor in 1926 and issuing a Supreme Court decision in 1927 that permitted some forms of abortion for medical reasons.<sup>45</sup> And even this slight expansion in the definition of legally permissible abortion came to an end with § 11 of the 1950 Law for the Protection of Mothers and Children and the Rights of Women. Concerns about population growth overrode memories of the KPD's endorsement of abortion law reform during the 1920s and early 1930s, and induced party stalwarts to reverse their earlier position on the issue.<sup>46</sup> For instance, while Käthe Kern had sought to overturn § 218 during the Weimar era, it was now her job as head of the GDR's Department for Mothers and Children at the Ministry of Health to convince East German

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<sup>44</sup> Norman Naimark, *The Russians in Germany: The History of the Soviet Zone of Occupation* (Cambridge, MA: Harvard University Press, 1995), ch. 2; Kirsten Poutrus, "Von den Massenvergewaltigungen zum Mutterschutzgesetz: Abtreibungspolitik und Abtreibungspraxis in Ostdeutschland, 1945-1950," in *Die Grenzen der Diktatur: Staat und Gesellschaft in der DDR*, eds. Richard Bessel and Ralph Jessen (Göttingen: Vandenhoeck & Ruprecht, 1996), 199-223.

<sup>45</sup> Cornelia Osborne, "Rebellious Girls and Pitiabale Women: Abortion Narratives in Weimar Popular Culture," *German History* 23, no. 3 (2005), 321-338, here 325; Grossmann, *Reforming Sex*, 82-83, 102-103.

<sup>46</sup> Geoff Eley, "From Welfare Politics to Welfare States: Women and the Socialist Question," in *Women and Socialism/Socialism and Women: Europe between the Two World Wars*, eds. Helmut Gruber and Pamela M. Graves (New York: Berghahn, 1998), 516-546, here 527-528; Hahn, *Modernisierung und Biopolitik*, 217-218. In 1936, the Soviet government revoked the Bolsheviks' 1920 decriminalization of abortion. Thus, both the GDR and USSR had experienced an expansion of reproductive freedom (albeit to different degrees) followed by its abrupt curtailment. In the USSR, however, abortion was decriminalized once again in the post-Stalinist climate of 1955; the SED did not follow suit. Dan Healey, *Homosexual Desire in Revolutionary Russia: The Regulation of Sexual and Gender Dissent* (Chicago: University of Chicago Press, 2001), 238. The GDR was something out of an outlier within the Soviet Bloc in this regard, as Hungary liberalized its abortion law in 1956, Czechoslovakia in 1957, and Yugoslavia in 1960. Hahn, *Modernisierung und Biopolitik*, 232; Harsch, "Society, the State, and Abortion," 53.

women that abortion should only be allowable under a very limited set of circumstances.<sup>47</sup>

From 1950 onwards, the responsibility for approving the termination of pregnancies for medical or eugenic reasons fell to commissions that each comprised three physicians, a representative of the Department for Mothers and Children, and a member from the Democratic Women's League of Germany (*Demokratischer Frauenbund Deutschlands*, or DFD). East German doctors in the 1950s drew upon "rehashed versions of arguments used by the Weimar and Nazi medical establishments: *every* abortion debased the general health of *any* woman, and, worst of all, could cause infertility."<sup>48</sup> Consequently, the GDR "had one of the lowest rates of legal abortion in the industrialized world," and by the 1960s, even SED officials intimated that the abortion commissions of the 1950s had been implementing the law too strictly.<sup>49</sup>

In 1952, Kern noted that "[s]ince marital and sexual counseling centers are not in high demand, we do not intend to establish any new counseling centers."<sup>50</sup> She consequently directed her colleagues to remove mention of ESBs from the brochure distributed to couples seeking to wed (*Merkblatt für Eheschliessende*).<sup>51</sup> By 1953, the Department for Mothers and Children was planning to integrate most ESBs into gynecological clinics, venereal disease treatment clinics, and counseling centers for pregnant women (*Schwangerenberatungsstellen*), although some popular marital

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<sup>47</sup> Harsch, "Society, the State, and Abortion," 59.

<sup>48</sup> Harsch, "Society, the State, and Abortion," 61.

<sup>49</sup> Harsch, "Society, the State, and Abortion," 60.

<sup>50</sup> BArch Berlin-Lichterfelde, DQ1 5144, directive from Käthe Kern, Leiterin der HA Mutter und Kind, Ministerium für Gesundheitswesen (hereafter MfG) in Berlin, to all 5 Länder, January 26, 1952, 141 of archival file.

<sup>51</sup> BArch Berlin-Lichterfelde, DQ1 5144, MfG Hausmitteilung from Käthe Kern, Leiterin der HA Mutter und Kind, to Neumann, Abteilung MI, MfG in Berlin, October 22, 1951, 144 of archival file.

counseling centers would remain open to dispense advice pertaining to marital and sexual life “especially with regard to contraception.”<sup>52</sup> By the late 1950s, however, the few extant counseling centers had trouble attracting visitors because they had a limited supply of contraceptives at their disposal.<sup>53</sup>

Population policy concerns did play a role in the lackluster commitment to contraceptive-distributing counseling centers during the decade leading up to 1965. Dr. Glaab of the State Hospital in Potsdam, for instance, worried about the demographic consequences of collapsing ESBs into pregnancy counseling centers. Since so many female ESB visitors sought contraception, they would introduce an uncomfortable dynamic in waiting room banter if they mingled with pregnancy counseling center visitors who desperately wanted to have a child. Glaab resented ESB visitors for cavalierly suppressing the fertility that others struggled to achieve, and he feared that ESB visitors’ supposed aversion to pregnancy—as deduced from their desire for birth control—would “rub off” on women who actually did want to be or become pregnant. Furthermore, since ESBs were supposed to appeal to both genders while pregnancy counseling centers were by definition limited to a female clientele, Glaab empathized with “[h]usbands [who] would presumably rarely be willing to go to a waiting room full of pregnant women.”<sup>54</sup> The decentralized marital and sexual counseling centers that survived into the 1960s were typically sustained by the independent initiative and

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<sup>52</sup> BArch Berlin-Lichterfelde, DQ1 5145, MfG Hausmitteilung from Bunge, Hauptreferentin, HA Mutter und Kind, Abteilung M I, to Abteilung Haushalt via Käthe Kern, November 6, 1953, unpaginated archival file; BArch Berlin-Lichterfelde, DQ1 5145, letter from Dr. Glaab, Oberarzt, Städtisches Krankenhaus Potsdam, Geburtsgynäkologische Abteilung, to MfG in Berlin, May 5, 1952, 1<sup>st</sup> page front side of document, unpaginated archival file.

<sup>53</sup> Hahn, *Modernisierung und Biopolitik*, 246.

<sup>54</sup> BArch Berlin-Lichterfelde, DQ1 5145, letter from Dr. Glaab, Oberarzt, Städtisches Krankenhaus Potsdam, Geburtsgynäkologische Abteilung, to MfG in Berlin, May 5, 1952, 1<sup>st</sup> page back side of document, unpaginated archival file.

passionate commitment of gynecologists and social hygienists who sought to keep alive the spirit of Weimar-era sex reform. In 1965, such centers still existed in, among other places, Halle, Berlin-Mitte, Leipzig, Rostock, Magdeburg, Greifswald, and Stralsund.<sup>55</sup>

Governmental neglect of relationship counseling prior to 1965 also reflected a broader disregard for sexual pedagogy despite the SED's overarching commitment to education (*Erziehung*) as a vehicle for the creation of socialist personhood. No less an authority than Leipzig ESB co-director Dr. Lykke Aresin retroactively provided a scathing indictment of the GDR's lack of commitment to sexual pedagogy: "Sexual-ethical education and preparing youth for relationships have received extremely short shrift in the past and have been more or less left to their own devices (*dem Selbstlauf überlassen*)."<sup>56</sup> For example, when Dr. Hans-Joachim Simmross tried to secure permission to publish a lecture entitled "Sexual Education and Upbringing" (*Geschlechtliche Aufklärung und geschlechtliche Erziehung*) in 1954, Dr. Friedeberger of the Central Institute for Medical Education (*Zentralinstitut für medizinische Aufklärung*) in Dresden informed him that there were no plans to publish any tracts pertaining to sexual pedagogy. Simmross considered this decision to be "more than strange (*mehr als eigenartig*)," since it revealed that "the highest authorities were not aware of the pressing

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<sup>55</sup> Timm, "Guarding the Health of Worker Families," 489; BArch Berlin-Lichterfelde, DP1 VA 1445, Band 2, Bericht über die Struktur und Arbeitsweise der bisher tätigen Eheberatungsstellen, August 19, 1965, 1 and 7 of document, 34 and 37 of archival file. The Leipzig ESB was situated in the Gynecological Clinic of the Karl Marx University and was led by Norbert Aresin and his wife Lykke Aresin; it was one of the most popular ESBs in the GDR. Also quite popular was the Rostock ESB, which was located at the University of Rostock's Institute for Social Hygiene and was directed by Professor Karl-Heinz Mehlan. The Magdeburg ESB was under the purview of Elfriede Paul, who became Professor of Social Hygiene at the University of Magdeburg in 1960. Dr. Alfred Geißler of the University of Greifswald was responsible for the ESBs in both Greifswald and Stralsund.

<sup>56</sup> Aresin, *Sprechstunde des Vertrauens*, 27.

need for such a brochure.”<sup>57</sup> The main theme of Simmross’ lecture was the need to tear away the shroud of silence regarding the delicate issue (*heikle Frage*) of sexuality and integrate sexual education into the overall upbringing of a child. It would seem as if the Stalinist ethos that had “made Soviet sexual enlightenment literature superfluous by making sublimation [of sexual impulses] mandatory” had survived Stalin’s death in the GDR.<sup>58</sup> But just one year later, Head of State Walter Ulbricht echoed the gist of Simmross’ appeal. In May 1955, Ulbricht “asked the editors of the daily newspaper *Junge Welt* [*Young World*] what was stopping them from broaching issues of sexuality: ‘Are you scared of it or what? You can’t argue that most young people are unconcerned by these issues. Why don’t you talk about such problems in your articles?’”<sup>59</sup>

Simmross sought to strengthen his case by noting that he had based his lecture upon an exhaustive combing of the German-language sexological literature *and* the writings of Soviet educator Anton Makarenko, presumably to show his good-faith effort to bring together the best of both worlds in terms of “Western” and “socialist” pedagogical thinking. He also solicited suggestions for improvement from the Ministry of Health that would hopefully make it consider his speech more suitable for publication. Simmross was understandably flummoxed by the fact that “[i]f one does not consider it necessary to publish a sex education brochure, why does one expect school authorities to

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<sup>57</sup> BArch Berlin-Lichterfelde, DQ1 2570, letter from Hans-Joachim Simmross, Facharzt für Hautkrankheiten in Leipzig, to MfG, Berlin, HA Wissenschaft und Aufklärung, Berlin, June 22, 1954, 1<sup>st</sup> page front side of document, unpaginated archival file.

<sup>58</sup> Fenemore, “Growing Pains,” 81, drawing upon Frances L. Bernstein, *The Dictatorship of Sex: Lifestyle Advice for the Soviet Masses* (DeKalb: Northern Illinois University Press, 2007).

<sup>59</sup> Fenemore, “Growing Pains,” 75.

arrange for speeches to be given about sexual education?”<sup>60</sup> By 1965, however, complaints about the inadequacy of sexual education in the GDR were coming from within the Ministry of Justice itself. Officials there noted that while “there are occasional sexual education campaigns in the press,” the schools and FDJ did nothing to prepare youth for marriage, and families were not doing their part either.<sup>61</sup>

During an eight-week-long reader forum in the newspaper *Neues Deutschland* (*New Germany*) in 1965, many discussion participants expressed their belief that “sex education should primarily be an education for social responsibility.”<sup>62</sup> Along similar lines, Dr. Alfred Geißler, head of the ESB affiliated with the University of Rostock, averred that “sex education is not [supposed to be] a course on sexology, but instead [is] designed to educate people to be [good] relationship partners” and to internalize socialist moral norms. As Julian Carter has observed about sexual pedagogy in the United States, the goal in the GDR was apparently to “teach sex without inadvertently introducing students to desire” in the hope that “education could influence behavior but that both knowledge and its consequences could be controlled and contained.”<sup>63</sup> Despite widespread wariness about the potential consequences of greater candor about sexual matters, the Ministry of Justice’s sexual pedagogical vision ultimately proved to be less

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<sup>60</sup> BArch Berlin-Lichterfelde, DQ1 2570, letter from Dr. Hans-Joachim Simmross, Facharzt für Hautkrankheiten in Leipzig, to MfG, HA Wissenschaft und Aufklärung, Berlin, June 22, 1954, 1<sup>st</sup> page back side of document, unpaginated archival file.

<sup>61</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 1, “Zu einigen Fragen der Familie in der DDR,” February 4, 1965, 4 and 6 of document, 4 and 6 of archival file.

<sup>62</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 2, “‘Gut beraten in die Ehe,’ Wir beenden unsere Leseraussprache ‘Heiraten—aber wann?’” *Neues Deutschland*-Gespräch mit Dr. Alfred Geißler, Rostock, *Neues Deutschland*, supplement no. 33, August 14, 1965, 4 of document, 92 of archival file.

<sup>63</sup> Julian B. Carter, “Birds, Bees, and Venereal Disease: Toward an Intellectual History of Sex Education,” *Journal of the History of Sexuality*, 10, no. 2 (April 2001), 213-249, here 219; Jeffrey P. Moran, *Teaching Sex: The Shaping of Adolescence in the Twentieth Century* (Cambridge, MA: Harvard University Press, 2000).

conservative than Geißler's comments would lead one to believe. Officials hoped that EFBs would highlight not only the moral quandaries posed by premarital sexual relationships and the dangers of hereditary diseases that might complicate a marriage's procreative prospects, but also the use of contraception and the erotic dimension of intimate relationships.<sup>64</sup>

### **Gauging Popular Receptivity to Relationship Counseling in the 1960s**

The Ministry of Justice's stance on sexual pedagogy might have been the result of its awareness of the pent-up desire for less "repressed" sexual discourse combined with its fear that East Germans would hesitate to turn to EFBs to resolve marital problems. During the public discussion of the FGB draft in 1965, the Ministry of Justice thus sought to assess the level of popular interest in relationship counseling. The five percent of discussants who spoke out against the creation of a network of relationship counseling centers touched upon matters of professional expertise and trust. They felt that there were not enough qualified counselors to go around, that the personal idiosyncrasies of spouses would prevent outsiders from ascertaining the truth about marital conflicts, and that people would stay away from counseling centers if they lacked confidence in them.<sup>65</sup> Subsequent experience would reveal their predictions to have been quite accurate.

Taking the pulse of popular opinion about relationship counseling did not only occur in the context of the FGB draft discussion. A 1965 questionnaire encompassing

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<sup>64</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 1, Schema für eine Befragung der Eheberatungsstellen, April 14, 1965, 82 and 84 of archival file.

<sup>65</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 2, MdJ, Bericht über die Diskussion zum Entwurf des Familiengesetzbuches (hereafter FGB), [dated August 20, 1965 in table of contents, but October 6, 1965 in text of report], 32 of document, 62 back side of archival file.

792 respondents from Berlin, Halle and Leipzig sought to ascertain whether there was any interest in premarital counseling as opposed to counseling for marital crises. The Ministry of Justice did not presuppose that the counseling center would necessarily be the first place that people would turn to for assistance and thus asked whether current or prospective spouses would rely upon parents, books, resources at school, newspapers, television or radio programs, friends, lectures about marriage and sexuality, or each other instead. Given the fact that many counseling centers would be established in municipalities with relatively small populations, officials wondered whether respondents would prefer to seek advice from a counselor who knew them personally and if they would opt for one-on-one or group counseling.<sup>66</sup> These questions revealed an openness to combining “individualistic” with “collective” forms of therapy rather than an assumption that one approach would necessarily supersede the other.

The survey results, broken down by marital status, showed that while 86.1 (divorced individuals) to 95.7 percent (individuals married for at least twelve years) of respondents thought that it would be useful to establish marital and family counseling centers, only 36 (unmarried and not in a serious relationship) to 51.7 percent (individuals married for five years) of respondents felt that they knew someone who could benefit from a counseling center’s assistance in overcoming marital problems. An even lower proportion of those surveyed—25.3 (individuals married for at least twelve years) to 46.4 percent (unmarried and in a serious relationship)—could envision themselves visiting a

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<sup>66</sup> BArch, DP1 VA 1445, Band 1, questionnaire regarding marital counseling centers to be administered by law students from the Humboldt University, the Martin Luther University in Halle-Wittenberg, and the Karl Marx University in Leipzig, April 14, 1965, 85 back side of archival file.

counseling center to resolve their own current or future sexual problems in marriage.<sup>67</sup> Thus, respondents' recognition of the "need" for relationship counseling did not necessarily mean that they were prepared to rely upon it themselves. Given the regime's concern about the persistently elevated divorce rate, officials could hardly have ignored the fact that 42.2 (individuals married for at least twelve years) to 56.3 percent (unmarried and not in a serious relationship) of those questioned would be inclined to consult an EFB for advice about the role of family law in mitigating spousal conflict. They would not, however, have been pleased by the fact that the percentage of respondents who would seek advice for these reasons was higher among divorced and never married individuals than it was for all categories of married individuals.<sup>68</sup>

Among the most prevalent motivations of those who actually did go to relationship counseling centers were the desire for assistance in dealing with the infidelity of a spouse, sexual disorders (like frigidity), contraception, and alcoholic and abusive spouses.<sup>69</sup> Relationship counselor Rudolf Neubert noted that usually the only people who visited a counseling center "before they were forced to do so by necessity and harm" were those who wanted information about contraception.<sup>70</sup> This posed a conundrum for state officials: they were not thrilled about the fact that the primary motivation for many

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<sup>67</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 4, MdJ, Informationsmaterial [ostensibly for a press release], Berlin, January 25, 1966, 4 of document, 82 of archival file.

<sup>68</sup> Ibid.

<sup>69</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 2, Bericht über die Struktur und Arbeitsweise der bisher tätigen Eheberatungsstellen, August 19, 1965, 3 of document, 35 front side of archival file. These observations stem from Magdeburg, but similar observations were made by counseling center staff members elsewhere in the GDR. The archival files that I consulted contain little in the way of detailed information regarding what actually transpired in counseling sessions; this might have been a consequence of a desire on the part of counselors to respect advice seekers' privacy or a disinclination to burden themselves with precise recordkeeping.

<sup>70</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 2, Rudolf Neubert, "Zur Diskussion über Ehe- und Familienberatungsstellen: Führende Rolle des Arztes," *Humanitas*, October 13, 1965, 108 of archival file.

non-crisis-driven visits to counseling centers was access to contraception, but since they were desirous of increasing the volume of visits, by what means other than offering contraception would they be able to do so?

In the hope of encouraging more young people to join the ranks of advice seekers, the marital counseling center in Cottbus held a youth forum in April 1965 that was attended by 200 sixteen- and seventeen-year-olds who were invited to pose questions anonymously. Their quite candid queries included: “Is there love at first sight?”; “Should one have sex before marriage?”; “Why does one become aroused by kissing?”; “Is it O.K. to masturbate, and does it cause any harm?” and “Can a man have relationships with more than one woman at once?”—all of which were duly answered by the counselors.<sup>71</sup> These youth would not be satisfied with the obfuscating injunction to “clean” and “decent” relations between the sexes that had been promulgated by Walter Ulbricht in the Ten Commandments of Socialist Morality in 1958 as part of a heavy-handed attempt to define characteristics of the “socialist personality.” Despite such initiatives, youthful visitors were in perpetually short supply, and the proliferation of counseling centers after the FGB went into effect did little to change this.<sup>72</sup>

Thus even before the rapid proliferation of counseling centers began, the Ministry of Justice had enough information at its disposal to be able to anticipate many of the reservations that citizens would have about seeking out relationship therapy. It nonetheless proved to be ill equipped in overcoming them. Report after report pointed to

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<sup>71</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 1, Vermerk über die Teilnahme an einem Jugendforum in Cottbus, veranstaltet von der dortigen Eheberatungsstelle am 28. April 1965 (sent by Rohde, Oberstes Gericht, 1. Zivilsenat, to Baumgart, MdJ, Berlin on April 30, 1965), 90.

<sup>72</sup> For one of many complaints about the lack of youthful visitors to counseling centers, see BArch Berlin-Lichterfelde, DP1 VA 1757, Band 5, Bericht über den Erfahrungsaustausch der in den Ehe- und Familienberatungsstellen tätigen juristischen Mitarbeiter aus den Bezirken Frankfurt/Oder, Halle und Karl-Marx-Stadt, July 1970, 8 of document, unnumbered but between 196 and 197 of archival file.

the fact that most counseling centers suffered from a dearth of visitors, contrary to Dagmar Herzog's assertion that East Germans "flocked to" them.<sup>73</sup> At a time when many East German governmental reports increasingly contained platitudes that bore a distant (if any) relationship to "real" societal circumstances, judicial authorities were remarkably forthright about the shortcomings of the GDR's grandiose experiment in relationship counseling. Behrends, Deputy Director of the Rostock Regional Court, berated his district-level judicial colleagues for having drafted updates about the status of EFB formation that were overly optimistic; in his estimation, having a location, a counseling collective, and regular consultation hours in place did not in and of themselves constitute a success if there was no logistical follow-up. Yet even these supposedly "optimistic" colleagues could not help but note that the number of cases handled by most EFBs was modest (*bescheiden*) and frequently on the decline.<sup>74</sup>

In an attempt to diagnose the problems that continually plagued the network of EFBs and ESBs, Jan Bretschneider, a doctoral student under the tutelage of Professor Rolf Borrmann at the Friedrich Schiller University in Jena, proposed in November 1967 to distribute surveys to counseling centers to provide empirical findings for his

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<sup>73</sup> Herzog, *Sex after Fascism*, 203; McLellan, *Love in the Time of Communism*, 80-81; Betts, *Within Walls*, 103, 108-115, drawing upon Timm, "Guarding the Health of Worker Families," 487, 491 and Inga Markovits, *Gerechtigkeit in Lüritz: Eine ostdeutsche Rechtsgeschichte* (Munich: C. H. Beck, 2006), 118. The reports that I consulted can be found in BArch Berlin-Lichterfelde, DP 1 VA 1445 and 1446, among other files. Greg Eghigian relies upon a similar oversimplification when he notes that the marriage counseling centers "were expanded" after the mid-1960s. While it is true that the number of centers did increase as per the stipulation of the 1965 FGB, his summation ignores the impediments that advocates of enhanced sexual counseling opportunities continued to face. Greg Eghigian, "Was There a Communist Psychiatry? Politics and East German Psychiatric Care, 1945-1989," *Harvard Review of Psychiatry* 10, no. 6 (2002), 364-368, here 366.

<sup>74</sup> BArch Berlin-Lichterfelde, DP1 VA 1757, Band 5, letter from Behrends, Stellvertretender Direktor des BG Rostock, to Einhorn, Direktor der HA III [sic—should be IV], MdJ, Berlin, Betreff: Vorschlag einer gemeinsamen Ratsvorlage des Bezirksarztes, des Bezirksschulrates, des Direktors des BG, der Vorsitzenden des Bezirksvorstandes DFD zur Tätigkeit der Ehe- und Familienberatungsstellen im Bezirk Rostock, July 13, 1970, 3 of document, 221 of archival file.

dissertation, “Problems of Sexual Morality and Possibilities of Influencing it from the Perspective of Marital and Sexual Counseling.” Einhorn of the Ministry of Justice ultimately granted Bretschneider permission to administer his questionnaire, albeit with suggestions for improvement that hewed closely to the recommendations of Professor Anita Grandke, the doyenne of family research in the GDR who led the Research Group “The Woman in Socialist Society” at the German Academy of the Sciences in Berlin. Given official reticence to make sexuality the primary focus of East German relationship counseling, Einhorn urged Bretschneider not to focus just on moral and sexual problems, but on all of the issues that counseling center staff had to address.<sup>75</sup> These included the efficacy and scope of outreach to the broader community; he thus urged Bretschneider to ascertain not whether, but instead how frequently EFB counselors gave lectures or held forums and marital education seminars. From Einhorn’s standpoint, organizing public events was not merely an aspirational goal for counselors, but instead a pressing desideratum.<sup>76</sup> As far as visitors to counseling centers were concerned, Einhorn was interested not only in their age and reasons for seeking advice, but also their gender; he thus directed Bretschneider to inquire whether husbands or wives typically sought out

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<sup>75</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, unnumbered volume (5 in sequence), letter from Einhorn, Leiter der HA Gesetzgebung, MdJ, Berlin, to Jan Bretschneider, Weimar, December 22, 1967, 141 of archival file.

<sup>76</sup> A couple of years later, though, even Einhorn would soften his stance on this point: he admitted in 1969 that the primary purpose of the EFB was to provide counseling for individual cases. Since counselors worked without compensation, they could not be expected to have much time to devote to publications or lectures and thereby live up to governmental paeans about the broader educative aims of the EFB. See BArch Berlin-Lichterfelde, DP1 VA 1757, letter from Einhorn, Direktor der HA IV, MdJ, Berlin, to Bezirksvorstand des DFD, Leipzig, April 10, 1969, 2 of document, 153 of archival file.

counseling, and which spouse was predominantly responsible for causing marital problems.<sup>77</sup>

Officials who monitored EFB attendance did not explicitly articulate any suspicion they might have harbored that East Germans did not come to EFBs because they considered them to be transmission belts for the inculcation of socialist ideological precepts for familial life that they were more inclined to reject than embrace. But officials did note that EFBs had trouble attracting visitors for reasons that were not unique to an East German citizenry that was potentially skittish about or hostile to state intervention in “private” affairs. Walter Krutzsch, a Ministry of Justice official, realized that “there are still great reservations that must be overcome. People are afraid to become fodder for gossip and doubt that there is really help [for their problems].”<sup>78</sup> This fear was particularly pronounced among rural residents, who consequently visited counseling centers in more densely populated areas, if at all.<sup>79</sup> Jurist Hanns Teucher pointed out that if an EFB in a smaller municipality were housed in a building with numerous types of offices, then the reason for visiting said building would be less immediately apparent to curious fellow community members.<sup>80</sup>

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<sup>77</sup> Despite having received official approval for his project, in 1974 Bretschneider completed a dissertation about the attainment of pedagogical goals in East German biology and chemistry classes instead.

<sup>78</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, MdJ, Berlin, Protokoll über die Fachtagung der Familienrichter (in Erfurt) am 22. November 1966 zu dem Thema: Erfahrungsaustausch über Ehe- und Familienberatungsstellen, 9 of document, 132 of archival file.

<sup>79</sup> Ibid.; BArch, DP1 VA 3007, Band 1.3561, Silbernagel of BG Halle (Saale), Überblick über Stand der Bildung und der Tätigkeit der Ehe- und Familienberatungsstellen und der dabei aufgetretenen Probleme, 1 of document, 75 of archival file; BArch Berlin-Lichterfelde, DP1 VA 1446, Band 4, *Deine Gesundheit* article (draft?) sent as an enclosure with a letter from Hildegard Hesse, *Deine Gesundheit* editorial staff, to MdJ, Berlin, February 1, 1968, 12 of document, 23 of archival file.

<sup>80</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, unnumbered volume (5 in sequence), Dipl.-Jur. Hanns Teucher, “Die Wirksamkeit der wissenschaftlichen Ehe- und Familienberatung weiter erhöhen! Vorschläge zur vorbeugenden Behandlung von Eheproblemen auf der Grundlage der Gamologie [his term for the interdisciplinary study of marriage, based on the Greek word “games” for marriage] durch Einführung eines ehekundlichen Unterrichts für Schulabgänger sowie durch die Konzentration der

To inspire trust in potential advice seekers, officials repeatedly emphasized the importance of confidentiality in counseling sessions, but this guarantee was hard to maintain when counselors felt obliged to call upon spouses' neighbors and colleagues to intervene in marital disputes. Given the circumscribed scope of openly expressed dissent during the public discussion of the 1965 FGB draft, it is striking that one-third of discussants were skeptical of or hostile to the idea of involving "societal forces" in the resolution of familial conflict.<sup>81</sup> But the practice continued nonetheless. In 1966, for instance, a counselor in Sömmerda met with a woman whose husband was having an adulterous affair with a female colleague. The husband said that he would not be able to tear himself away from his lover as long as they worked in the same place, and thus the Sömmerda EFB obtained another job for the husband, who thereupon returned to his family.<sup>82</sup>

Typical of such interventions was the counselor's rather pat treatment of the emotional dynamics of this adulterous situation and his failure to address why this man's

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wissenschaftlichen Ehe- und Familienberatung in zentralen Beratungsstellen," sent by Teucher of Leipzig to the Staatsrat der DDR on April 9, 1968, and forwarded by Leymann, Staatsrat der DDR to Hans Ranke, MdJ, Berlin, on April 29, 1968, 2 of document, 69 of archival file; BArch Berlin-Lichterfelde, DP1 VA 1757, letter from Knecht, BG Halle (Saale), to MdJ, HA IV, Berlin, Betreff: Stand der Bildung von Ehe- und Familienberatungsstellen, August 30, 1968, 1 of document, 56 of archival file. In the region of Karl-Marx-Stadt, to name but one example, citizens did not like visiting EFBs that were housed in courthouses and marriage registries since such locations made the purpose of their visits too readily apparent to anyone observing; the city of Karl-Marx-Stadt and Zwickau found that people were more likely to visit an EFB in a more "neutral" space like the Club for Intelligentsia (*Klub der Intelligenz*); see BArch Berlin-Lichterfelde, DP1 VA 1757, Kuckoreit, Direktor des BG Karl-Marx-Stadt, to MdJ, HA IV, Berlin, Betreff: Ehe- und Familienberatungsstellen, September 9, 1968, 1 of document, 69 back side of archival file; BArch Berlin-Lichterfelde, DP1 VA 1757, MdJ, HA IV, Berlin, Bericht über den Stand der Bildung und Tätigkeit der Ehe- und Familienberatungsstellen in den Bezirken und Kreisen, January 16, 1969, 6 of document, 119 of archival file.

<sup>81</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 2, MdJ, Bericht über die Diskussion zum Entwurf des FGB, [dated August 20, 1965 in table of contents, but October 6, 1965 in text of report], 31 of document, 62 front side of archival file.

<sup>82</sup> BArch Berlin-Lichterfelde, DP 1 VA 1446, Protokoll über die Fachtagung der Familienrichter [from Erfurt] am 22. November 1966 zu dem Thema: Erfahrungsaustausch über Ehe- und Familienberatungsstellen, 11 of document, 134 of archival file.

initial working environment had not been sufficiently imbued with socialist morality so as to prevent him from having an adulterous affair in the first place. It is striking that the counselor did not see any contradiction between upholding the principle of confidential counseling and intervening in such a way that would make it difficult to hide the couple's predicament. He was also rather naïve in his expectation that the key to dissolving a sexually charged emotional attachment was changing one's working environment, although he was not alone in this belief as workplace transfers (usually organized by courts or workplace brigades) were a fairly common response to illicit affairs between colleagues. At least according to official statistics, however, confidentiality was not necessarily among advice seekers' foremost concerns: by 1970, fewer than 10 percent of EFB visitors in the regions of Frankfurt an der Oder, Halle, and Karl-Marx-Stadt wished to remain anonymous, and the number of anonymous advice seekers, when recorded, tended to be even lower elsewhere.<sup>83</sup> But the reluctance of many East Germans to visit an EFB in the first place seems to speak to a greater concern for confidentiality than these statistics would indicate.

By March 1967, EFBs throughout East Germany attracted an average of four to five visitors per month; this number remained quite low even though many new counseling centers had had more than a year to become known in their communities. Only about three or four EFBs managed to attract more than twenty visitors per month.<sup>84</sup>

There was an incessant refrain in governmental reports that municipal authorities,

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<sup>83</sup> BArch Berlin-Lichterfelde, DP1 VA 1757, Band 5, Bericht über den Erfahrungsaustausch der in den Ehe- und Familienberatungsstellen tätigen juristischen Mitarbeiter aus den Bezirken Frankfurt/Oder, Halle und Karl-Marx-Stadt, July 1970, 5 of document, 194 of archival file.

<sup>84</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, Bericht über den Stand der Bildung und der Tätigkeit der Ehe- und Familienberatungsstellen in der DDR, MdJ, Berlin, March 7, 1967, 4 of document, 150 of archival file.

workplace administrators, and counselors were not doing enough to publicize the existence and methodologies of counseling centers, but in the case of the city of Erfurt—to provide but one example—recurrent publicity apparently was not sufficient to stimulate interest. The Erfurt EFB, which had been founded in July 1964, attracted no more than ten visitors during its initial year of operation—and some of these visitors had problems that its counselors were not qualified to address. Consequently, the EFB shut down, only to be reopened because of the 1965 FGB's requirement that every district have its own EFB.<sup>85</sup> And the situation in Erfurt was by no means unique. Despite an exemplary publicity campaign in the town of Niesky—regular notices in the press, a lecture series featuring doctors, jurists, and psychologists, and a brochure that emphasized counselors' extensive professional and life experience and their respect for visitors' confidentiality—the local EFB was not able to avoid the all-too-common fate of an almost complete lack of visitors.<sup>86</sup>

As Lykke Aresin emphasized in the title of her book on matters pertaining to sexual and marital counseling, *Consultation Hour of Trust (Sprechstunde des*

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<sup>85</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 2, Bericht über die Struktur und Arbeitsweise der bisher tätigen Eheberatungsstellen, MdJ, Berlin, August 19, 1965, 5 of document, 36 front side of archival file.

<sup>86</sup> BArch Berlin-Lichterfelde, DP1 VA 1757, Direktor, BG Dresden, Betreff: Ehe- und Familienberatungsstellen, Bericht über den derzeitigen Stand der Arbeitsweise, der gewonnenen Erfahrungen und Schwierigkeiten der Ehe- und Familienberatungsstellen im Bezirk Dresden und über Fragen der Zusammenarbeit mit Ehe- und Sexualberatungsstellen als medizinischer Zweig der Ehe- und Familienberatung, September 6, 1968, 2 back side and 4 front side of document, 61 back side and 63 front side of archival file. When EFBs in the largely rural districts of Forst, Herzberg, Luckau, and Lübben in the *Bezirk* of Cottbus failed to attract visitors despite publicizing their services, they, like other EFBs throughout the GDR, simply shut down; in Herzberg and Lübben, however, district court judges continued to offer individualized counseling akin to what visitors to an EFB would have received; see BArch Berlin-Lichterfelde, DP1 VA 1757, Ehrenwall, Direktor des Kreisgerichts (hereafter KG) Cottbus, to MdJ, HA IV, Berlin, Betreff: Einschätzung über die Tätigkeit der Ehe- und Familienberatungsstellen im Bezirk, September 9, 1968, 1 of document, 64 of archival file; BArch Berlin-Lichterfelde, DP1 VA 1757, Stellvertreter von Neudert, Direktor des BG Schwerin, to MdJ, HA IV, Berlin, Betreff: Bericht über die Tätigkeit der Ehe- und Familienberatungsstellen im Bezirk Schwerin, September 10, 1968, 3 of document, 83 of archival file.

*Vertrauens*), it was imperative that counselors not only have impeccable professional credentials, but also the life experience and community respect that would enable them to earn the trust of the general population.<sup>87</sup> This was most certainly the case for EFBs that were sustained by the initiative of a sole counselor, since they typically unraveled when the counselor became indisposed. In Großenhain, for instance, an EFB was founded in October 1967, but when the local district court judge who had apparently been the motive force behind the counseling center became ill, the EFB effectively became dormant just a few months later, in January 1968. Something very similar occurred, albeit over a period of a few years (1965 to 1967) rather than months, at the EFB in the rural outskirts of Dresden.<sup>88</sup> The EFB “counseling collective” was all too often a collective of one.

The question arose as to whether EFBs should be part of the state apparatus, or nominally autonomous societal institutions operating with the help and support of the state. The Ministry of Justice decided that the latter option would constitute “the most favorable strategy for countering the reservations still expressed by some segments of the population.”<sup>89</sup> While the distinction was in practice a formal one, this constitutes a surprisingly explicit admission that East Germans might not have been inclined to entrust their private problems to an institution that had no ostensible degree of autonomy from the state.<sup>90</sup> Although the town of Dessau initially established an EFB to comply with the

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<sup>87</sup> Aresin, *Sprechstunde des Vertrauens*, 24.

<sup>88</sup> BArch Berlin-Lichterfelde, DP1 VA 1757, Direktor, BG Dresden, Betreff: Ehe- und Familienberatungsstellen, Bericht über den derzeitigen Stand der Arbeitsweise, der gewonnenen Erfahrungen und Schwierigkeiten der Ehe- und Familienberatungsstellen im Bezirk Dresden und über Fragen der Zusammenarbeit mit Ehe- und Sexualberatungsstellen als medizinischer Zweig der Ehe- und Familienberatung, September 6, 1968, 2 back side of document, 61 back side of archival file.

<sup>89</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 2, Bericht über die Struktur und Arbeitsweise der bisher tätigen Eheberatungsstellen, August 19, 1965, 14 of document, 40 back side of archival file.

<sup>90</sup> This was a problem beyond the ESB and EFB as well: “Trust was an essential component of effective sex education. But given the highly politicized nature of education in the GDR and the role teachers were

Family Law Code, for instance, it lacked an official ESB as of 1968 given the widespread belief that people with sexual problems in need of medical attention would feel more comfortable directly seeking out a doctor whom they knew and trusted rather than visiting public institutions (*öffentliche Stellen*) for this purpose.<sup>91</sup> Even though East German doctors worked in state-run clinics, these clinics were perhaps less readily identifiable as appendages of the government than a network of counseling centers ushered into existence in a blaze of propagandistic fanfare would have been.

At other times, however, officials did not expend any effort in attempting to disguise the EFB as being anything other than a state institution. As the pamphlet of a district-level marital counseling commission stated, “Our state has trust in you, so you should trust it and its institutions!”<sup>92</sup> Yet another strategy entailed the cultivation of trust on the basis of the integrity and professionalism of the counselors themselves. A brochure for the Berlin-Pankow counseling center stated: “You can be full of confidence in presenting your problems to doctors, psychologists, teachers, youth social workers, and jurists, who will advise you with delicacy and tact.”<sup>93</sup> The populace, for its part, proved to be quite selective in according trust to marital counselors.

Fundamentally, the issue of trust spoke to the widespread perception that the SED was intent upon eroding the distinction between public and private. In Chapter 4, drawing upon a key insight of Paul Betts’, I demonstrated how the disjuncture between

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expected to play as spokespeople for a dictatorial regime, it was often in short supply.” Fenemore, “Growing Pains,” 83.

<sup>91</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, Band 4, *Deine Gesundheit* article (draft?) sent as an enclosure with a letter from Hildegard Hesse, *Deine Gesundheit* editorial staff, to MdJ, Berlin, February 1, 1968, 11 of document, 22 of archival file.

<sup>92</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 2, undated pamphlet produced by the Marital Counseling Commission in either Bautzen or Forst, unpaginated part of archival file.

<sup>93</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 2, excerpt from newspaper *Der Blick nach vorn*, 1965, “Am zweiten Dienstag,” 89 of archival file.

popular attitudes and reforms in East German family law could actually serve to highlight rather than undermine this distinction.<sup>94</sup> Like family law judges, relationship counselors were to draw upon a variety of tools, including but not limited to socialist jurisprudence, that would infringe upon the inviolability of the private sphere in order to strengthen it, albeit with the goal of fortifying socialist society as a whole by means of its constituent elements.

A reader of *Neues Deutschland* objected to state-orchestrated relationship counseling because she firmly believed that “what happens within the four walls of one’s home is a private matter” and thus should not be the subject of societal or governmental intervention. Dr. Geißler made a point of reassuring other *Neues Deutschland* readers that the distinction between public and private would remain intact:

Society’s concern about marriage and family does not involve looking through the keyhole of the bedroom, as one of your female readers feared. Society’s concern consists first and foremost in establishing favorable social, cultural, and material conditions for the development of marriage and family. Society concerns itself with the intimate sphere only to the extent that it provides those who have problems in this domain with access to professional counseling and help. A counselor would never intervene in the affairs of a married couple without being invited to do so. These doubts and this lack of trust will quickly dissipate due to the intelligent, discreet, and tactful implementation of marital counseling.<sup>95</sup>

Family law judges who discussed family counseling at a conference in Erfurt in 1966 echoed this sentiment. They expressed their belief that East Germans should be free to

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<sup>94</sup> Betts, *Within Walls*, 5.

<sup>95</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 2, “‘Gut beraten in die Ehe,’ Wir beenden unsere Leseraussprache ‘Heiraten—aber wann?’” *Neues Deutschland*-Gespräch mit Dr. Alfred Geißler, Rostock, *Neues Deutschland*, supplement no. 33, August 14, 1965, 4 of document, 92 of archival file; BArch Berlin-Lichterfelde, DP1 VA 1757, Band 5, Bericht über den Erfahrungsaustausch der in den Ehe- und Familienberatungsstellen tätigen juristischen Mitarbeiter aus den Bezirken Frankfurt/Oder, Halle und Karl-Marx-Stadt, July 1970, 8 and 10 of document, unnumbered page (between 196 and 198) and 198 of archival file.

make their own decisions about marriage and family, and that EFBs were not intended to curtail the scope of this freedom. Instead, the judges' goal was to enable people to make more informed decisions, but they did not lose sight of the fact that imparting socialist ethics for family life through the EFBs was part of a "larger ideological struggle" against the unrelenting influx of pernicious influences from the capitalist world. The judges recognized that their task was not merely an ideological one. When citizens were inclined to blame their own personal failings on what they perceived to be the shortcomings of the state, counselors were advised to draw upon their tact, empathy, and expert knowledge to devise the most appropriate pedagogical *and* psychological approaches to counseling such individuals.<sup>96</sup>

Because of widespread misgivings about governmental encroachments upon familial life, many couples only turned to an EFB or ESB as a crisis resolution center of last resort—in other words, when they found themselves embroiled in serious conflicts that were no longer amenable to resolution. The Ministry of Justice hoped that EFBs would instead serve the prophylactic function of preventing marital disputes and educating spouses about their responsibilities to one another and to society at large—preferably before a couple's nuptials even took place.<sup>97</sup> But if the EFB was supposed to inspire prospective spouses to seek out premarital counseling and couples to address marital conflict in a more timely fashion, however, it more often than not found itself in

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<sup>96</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, MdJ, Berlin, Protokoll über die Fachtagung der Familienrichter (in Erfurt) am 22. November 1966 zu dem Thema: Erfahrungsaustausch über Ehe- und Familienberatungsstellen, 2-3 of document, 125-126 of archival file.

<sup>97</sup> BArch Berlin-Lichterfelde, DP1 VA 1757, Präsidiumssitzung des Senats für Familiensachen im BG Neubrandenburg, Bericht über den Stand der Bildung und die Arbeitsweise der Ehe- und Familienberatungsstellen (EFB) im Bezirk Neubrandenburg, February 7, 1969, 7 of document, 140 of archival file.

the position of a spurned suitor. For this reason, one observer opined, “[t]he purpose of counseling as stipulated by the Family Law Code has not yet been achieved.”<sup>98</sup>

Some East Germans did attribute a quasi-judicial function to the EFB—namely, as a court of appeals. A state official noted that the few visitors who did come to the EFB in Eilenburg treated it as a “complaint center in charge of supervising other agencies (*übergeordnetes Beschwerdeorgan*)”; in other words, they visited the EFB only if they did not get what they wanted from the district court, youth services department, or housing office. For this subset of advice seekers, the EFB assumed the purpose that the epistolary petitions known as *Eingaben* were supposed to serve: providing a means by which citizens could seek redress for their grievances with governmental officials. This perception was not likely to have lasted for very long, however, since the EFB in Eilenburg invariably referred visitors back to the organs of government that had not satisfactorily responded to citizens’ requests or concerns in the first place, and after months of attracting no visitors at all, the Eilenburg EFB effectively ceased operation.<sup>99</sup>

In areas marked by a particularly strong allegiance to the Catholic Church such as the town of Heiligenstadt, in which no one had visited its EFB during the course of 1966, Ministry of Justice officials speculated as to whether or not a priest should be invited as a member of the counseling collective, provided that a suitable candidate could be found who would not seek to place the EFB “under the orbit of ecclesiastical control” (*in das*

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<sup>98</sup> BArch Berlin-Lichterfelde, DP1 VA 1756—Dresden subsection, letter from Braun, Direktor des KG Dresden-West, to MdJ, Berlin, November 9, 1966, unpaginated archival file.

<sup>99</sup> BArch Berlin-Lichterfelde, DP1 VA 1756—Leipzig subsection, Protokoll über den Erfahrungsaustausch der Eheberatungsstellen des Bezirkes Leipzig am 28. Juni 1967 (report signed by Zander, Richter am KG, and forwarded by Franke, stellvertretender Direktor des BG Leipzig to MdJ, HA IV, Berlin, on July 3, 1967), 4 of document, unpaginated archival file.

*Schlepptau der Kirche*).<sup>100</sup> In Magdeburg, and perhaps elsewhere as well, the churches remained quite active in providing counseling: “Many young people, especially those of Catholic faith, go to their priest to obtain premarital counseling as a matter of principle.”<sup>101</sup> The relationship between ecclesiastical and governmental counseling was not necessarily an antagonistic one, however; Heuckendorf, the director of the Schwerin Regional Court, was struck by the fact that churches, especially in the district of Güstrow, were actually referring advice-seekers to the local EFB.<sup>102</sup>

### **Thinking, and Speaking, Sex**

Officials’ and counselors’ concerns about the unwillingness of East Germans to accept the intervention of state institutions in their intimate lives were tempered by ambivalence about the extent to which the populace seemed to be craving an outlet for sexual discourse. On the one hand, counselors such as Lykke Aresin invoked the lingering influence of “capitalist” conceptions of sexual shame, gender inequality, and prudishness as reasons why otherwise thoroughly modern East Germans would need to have an outlet to discuss problems related to their intimate lives.<sup>103</sup> Indeed, the tenor of

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<sup>100</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, Walter Krutzsch, Bericht über den Erfahrungsaustausch der im Bezirk Erfurt in den Ehe- und Familienberatungsstellen tätigen Richter vom 22. November 1966, 1 of document, 118b of archival file.

<sup>101</sup> BArch Berlin-Lichterfelde, DP1 VA 1756—Schwerin subsection, Diedrich, Oberrichter am BG Schwerin, Protokoll über die am Donnerstag den 22. Juni 1967 9.00 Uhr durchgeführte Arbeitstagung mit den Richtern in Zivil- und Familiensachen, forwarded by Heuckendorf, Direktor des BG Schwerin, to MdJ, Berlin, on June 23, 1967, 3 of document, unpaginated archival file.

<sup>102</sup> BArch Berlin-Lichterfelde, DP1 VA 1756—Schwerin subsection, letter from Heuckendorf, Direktor des BG Schwerin, to MdJ, HA IV, Berlin, December 29, 1967, 2 of document, unpaginated archival file.

<sup>103</sup> Aresin, *Sprechstunde des Vertrauens*, 8.

many relationship advice manuals betrayed a fundamental distrust of East Germans' ability to internalize socialist moral norms regarding marriage, family, and sexuality.<sup>104</sup>

On the other hand, relationship therapists like Rolf Borrmann (and even Aresin herself) complained that intimate life had not yet received sufficient attention in socialist society, and that interpersonal relationships informed by socialist principles would not develop without the existence of outlets for sexual discourse like EFBs and ESBs. After all, why else would the need to establish a comprehensive network of counseling centers have seemed so pressing? For Borrmann and other purveyors of relationship advice in the GDR, attitudes towards love, sexuality, marriage, and family were inextricably intertwined with the development of socialist convictions, character traits, and behavioral patterns.<sup>105</sup> But this developmental process was unfolding at an agonizingly languid pace. As late as 1988, Lykke Aresin and Erwin Günther, director of the dermatological clinic at the Friedrich Schiller University in Jena, reiterated the frequently made call for the “education of the educators” (*Erziehung der Erzieher*).<sup>106</sup> Aresin and Günther noted that:

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<sup>104</sup> Rudolf Neubert noted that his books *Das neue Ehebuch* and *Die Geschlechterfrage*, published in the 1950s, had elicited about 500 letters from readers. He frequently wondered why the advice-seekers would have turned to an author they did not know rather than to family or collective members, and indeed thought that the very genre of the book that he wrote was a symptom of the transitional period (*Übergangszeit*) that would become superfluous once socialist conceptions of sexual and married life had been fully absorbed by East Germans. But he also saw the establishment of a comprehensive network of ESBs as one potential antidote to this situation. See Rudolf Neubert, *Fragen und Antworten zum Neuen Ehebuch* (Rudolstadt: Greifenverlag, 1961), 158, 223.

<sup>105</sup> Rolf Borrmann, *Jugend und Liebe: Die Beziehungen der Jugendlichen zum anderen Geschlecht*, 3<sup>rd</sup> rev. ed. (Leipzig, Jena, and Berlin, 1966), 5.

<sup>106</sup> This phrase stems from, among other manuals, Borrmann, *Jugend und Liebe*, 163. Bemoaning the ignorance and prudishness of those who should be imparting sexual knowledge to the rising generation and of earlier professional experts was certainly not limited to the GDR; see Carter, “Birds, Bees, and Venereal Disease,” 241. In the East German context, it constituted an admission that parents and educators who were supposed to promulgate socialist values in all aspects of life on behalf of the SED did not have a sufficient grasp of those values themselves. But critiquing others' reluctance to address sexual matters head-on, whether in the GDR or elsewhere, could also be a potentially disingenuous ploy used by a “new”

Parents, teachers, university instructors, and other educators have still not overcome their hostility [towards sexuality]; some apparently think that since everyone can speak freely about sexuality, they need not do so themselves. But more than 100 years ago Friedrich Engels opposed prudishness and two-faced morality by writing: “It is about time that German workers—if nobody else—become accustomed to speaking dispassionately about activities in which they themselves are engaging on a daily or nightly basis—about natural, indispensable, and particularly pleasurable matters.”<sup>107</sup>

If Friedrich Engels could not provide sufficient incitement to sexual discourse, who could?

Despite the fact that many experts bewailed the populace’s lack of willingness to discuss sexual matters openly and freely, the experience of the most popular centers revealed that sexuality was *all* that many East Germans wanted to talk about when they sought counsel. Lykke Aresin emphasized that when someone engaging in “abnormal sexual behavior” came to an ESB, she or he was hoping for “sympathetic assistance” rather than “moral judgment.”<sup>108</sup> For instance, Aresin acknowledged that gay men were more likely than lesbians to suffer from “societal hostility that is rooted in Christian conceptions of morality,” and that they would thus need more assistance in overcoming the negative consequences of ostracization. Like psychiatrist Rudolf Klimmer, she found the efficacy of hormonal and psychotherapeutic “cures” for those whose homosexuality was an inalterable facet of their psyche to be dubious, and consequently recommended that a gay man who had married a woman in the hope of changing his sexual orientation

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cohort of professionals seeking to bolster the status of their own expertise: “[j]ust as the social hygienists triumphed over ‘silence,’ Margaret Sanger denounced those who had gone before as coy, while Kinsey described them all as unscientific moralizers.” H. G. Cocks, “The Growing Pains of the History of Sexuality,” *Journal of Contemporary History* 39, no. 4 (2004), 657-666, here 661.

<sup>107</sup> Lykke Aresin and Erwin Günther, “Einleitung,” in *Sexualmedizin: Ein Leitfadens für Medizinstudenten*, 3<sup>rd</sup> ed., eds. Lykke Aresin and Erwin Günther (Berlin: Verlag Volk und Gesundheit, 1988), 11-12, here 11.

<sup>108</sup> Aresin, *Sprechstunde des Vertrauens*, 24-25.

should get a divorce. This did not mean, however, that counselors should not touch upon the ethical dimensions of non-normative sexual behavior at all. The counselor had the responsibility to ascertain whether a self-proclaimed homosexual man was *really* attracted to men, or whether the attraction or the sexual encounters were occasional or situational in nature. If this were the case, then the counselor's role was to inform the individual in question that he would "return" to heterosexuality once the possibility of being intimate with an opposite-sex partner presented itself. Aresin implicitly alluded to the fact that consensual same-sex sexual acts between men were no longer illegal, but she emphasized that the "seduction of youth" would still meet with the full condemnation of the law. And even as the therapist was to refrain from exercising judgment, she or he also had the duty to ascertain whether the homosexual male patient felt "like a man or a woman" and whether he preferred "penetrative or receptive intercourse." Aresin provided no guidance as to the ethical—or even the clinical—implications of these findings.<sup>109</sup>

The ESB at the Gynecological Clinic of the University of Leipzig attained its popularity in no small part due to its reputation for offering sexual therapy, and for many visitors, "sexual therapy" meant family planning services. Lykke Aresin noted that demand for contraception had increased dramatically during the 1960s and that about 50

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<sup>109</sup> Aresin, *Sprechstunde des Vertrauens*, 88-90. Klimmer noted that "[h]omosexuals of course also came [to his ESB in Dresden], in part out of fear of legal persecution, and in part due to sexual misery, since it was difficult for them to establish contact with like-minded individuals in a city like Dresden. Also among the visitors were younger men who were not sure whether they were homosexual and did not want to be." Schwules Archiv und Museum Berlin, Klimmer Nachlass, folder: Sonderdrucke von wissenschaftlichen Arbeiten Dr. Klimmer/Diverse Zeitungsartikel über Dr. Rudolf Klimmer, Thomas Derra, "Sexualforscher in der DDR, Interview mit Dr. Rudolf Klimmer, am 11./12. Dez. 1976," *Schwuchtel* (Spring 1977), 19-20, here 19.

percent of visitors to her clinic sought birth control.<sup>110</sup> The Leipzig ESB was certainly not alone in this regard. In the region of Karl-Marx-Stadt, roughly 40 percent of visitors came to counseling centers to seek some kind of sexual advice; officials estimated this proportion to be even higher in Berlin and the region of Erfurt.<sup>111</sup>

The “education of the educators” when it came to sexual matters was to begin with counselors themselves. The initiative for this training came not from the Ministry of Justice-run EFBs, but instead from the Ministry of Health-affiliated ESBs. At the First Continuing Education Conference for ESB counselors in October 1965, Professor Karl-Heinz Mehlan, Director of the Institute for Social Hygiene at the University of Rostock, was joined by Professor Ernst Kraußold, Director of the Gynecological Clinic at the University of Greifswald, and Professor Norbert Aresin of Leipzig in calling for more funding for research on contraceptives, including birth control of the hormonal variety. But they were concerned about the side effects of Ovosiston, the trade name for the Pill in East Germany.<sup>112</sup> Mehlan sought to change the popular sobriquet for Ovosiston from the “anti-baby pill” to the “desired child pill” (*Wunschkindpille*); this attempt at

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<sup>110</sup> Aresin, *Sprechstunde des Vertrauens*, 45-46. Of the 884 visitors at Norbert and Lykke Aresin’s counseling center in 1964, 47.8 percent came to inquire about contraception, 10.7 percent about female sexual disorders, 9.8 percent about general sexual disorders, 9.3 percent about marital conflicts that stemmed from sexual disorders, 6.4 percent about male sexual disorders, 5.3 percent about pregnancy counseling, and 4.3 percent about other problems. See BArch Berlin-Lichterfelde, DP1 VA 1445, Band 3, report on the Leipzig Eheberatungsstelle, unpaginated archival file. A secondary source lists the same percentage breakdown for problems brought to the Aresins’ attention, but tabulates only 838 visitors during 1964: Joachim S. Hohmann, ed., *Sexuologie in der DDR* (Berlin: Dietz, 1991), 77, 79.

<sup>111</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, Bericht über den Stand der Bildung und der Tätigkeit der Ehe- und Familienberatungsstellen in der DDR, MdJ, Berlin, March 7, 1967, 6 of document, 152 of archival file. The officials were right—from 1968 to 1969, about 64 percent of visitors to the Berlin-Mitte counseling center came for reasons related to sexuality—20 percent for contraception, 22 percent because of marital infidelity, 9 percent because of female sexual frigidity, 5 percent for male impotence, 5 percent for other kinds of sexual dysfunction, and 3 percent for an abortion. Timm, “Guarding the Health of Worker Families,” 492; Harsch, “Sex, Divorce, and Women’s Waged Work,” 111.

<sup>112</sup> The GDR began importing the Dutch hormonal contraceptive Lyndiol in 1962 and initiated domestic production of the Pill in 1965. Hahn, *Modernisierung und Biopolitik*, 246.

“rebranding” was indicative of the ambivalence towards birth control harbored even by one of the most ardent proponents of family planning in the GDR at the time.<sup>113</sup>

According to Stefan Wolle, East German proponents of family planning cast it not so much as a means of enhancing personal reproductive choice as a way of scheduling childbearing so that it would not conflict with couples’ vocational training and workforce participation.<sup>114</sup>

During the mid-1960s, these experts, at least in their public statements, felt that the Pill should only be available by prescription to address a medical necessity or alleviate social hardship. But no medical reason was compelling enough for these foremost East German experts on family planning to entertain the notion of prescribing Ovoston to women under the age of twenty-one or even to women over the age of twenty-one for more than two years at a time.<sup>115</sup> While Mehlan, Kraußold, and Norbert Aresin feared that unfettered access to hormonal contraception would have deleterious

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<sup>113</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 2, Beyer, Vermerk betr. 1. Rostocker Fortbildungstage über Probleme der Ehe- und Sexualberatung vom 22. bis 24. Oktober 1965, MdJ, HA Recht, Berlin, October 27, 1965, 3 of document, 119 of archival file; Harsch, “Society, the State, and Abortion,” 65. The term *Wunschkind* was also quite prevalent in West German discussions of family planning at the time; Friedrich-Ebert-Stiftung, ed. *Familienpolitik und Familienplanung in beiden deutschen Staaten* (Bonn-Bad Godesberg: Verlag Neue Gesellschaft, 1977), 34. But “anti-baby pill” was part of the contraceptive discourse in the FRG as well. Christian de Nuys-Henkelmann, “‘Wenn die rote Sonne abends im Meer versinkt...’: Die Sexualmoral der fünfziger Jahre,” in *Sexualmoral und Zeitgeist im 19. und 20. Jahrhundert*, eds. Anja Bagel-Bohlan and Michael Salewski (Opladen: Leske + Budrich, 1990), 107-145, here 118. For a history of the Pill in the FRG, see Eva-Maria Silies, *Liebe, Lust und Last: Die Pille als weibliche Generationserfahrung in der Bundesrepublik (1960-1980)* (Göttingen: Wallstein Verlag, 2010); for a history of the relative input of women and men in making contraceptive decisions in the United Kingdom see Kate Fisher, *Birth Control, Sex, and Marriage in Britain 1918-1960* (New York: Oxford University Press, 2006).

<sup>114</sup> Stefan Wolle, *Aufbruch nach Utopia: Alltag und Herrschaft in der DDR 1961-1971* (Berlin: Ch. Links Verlag, 2011), 217. But this was not an exclusively East German phenomenon, since “[t]he distribution of the pill [sic lowercase] was strictly controlled [in many countries] until the early 1970s by doctors who associated pill prescription with population control and eugenics, rather than with sexual freedom.” Cocks, “Growing Pains of the History of Sexuality,” 662.

<sup>115</sup> At this time, most of the hormonal contraception produced in the GDR was intended for export. According to Harsch, “[b]efore 1970, Ovoston was prescribed almost exclusively to women with a medical indication against pregnancy.” Harsch, “Sex, Divorce, and Women’s Waged Work,” 109.

societal consequences, they were also concerned that restricting access too much might lead to the development of a black market.<sup>116</sup> And despite his misgivings about hormonal contraception, Kraußold was not terribly enthusiastic about the alternatives either:

Abstinence can only ever be a temporary remedy. Use of the rhythm method can provide sufficient protection against unwanted pregnancy, albeit only within limits. In our region, the most common method is *coitus interruptus*, the efficacy of which is disputed; hence it is not advisable from a medical standpoint.<sup>117</sup>

Other experts were more sanguine about the availability and efficacy of existing birth control methods. Förster, the head of the Research Center for WTZ Pharmaceuticals in Radebeul, was surprised by Kraußold's contention that the availability of indigenously produced contraceptives, such as spermicides, was "insufficient," and he also noted that the East German version of the Pill was proving to be quite popular.<sup>118</sup> Ultimately, participants at the 1965 conference came to the consensus that "rejecting modern forms [of contraception] like oral contraceptives and intrauterine pessaries is just as inappropriate as using only modern contraceptives to the exclusion of traditional methods."<sup>119</sup>

In practice, the supply of contraceptives at counseling centers was not necessarily keeping up with demand during the mid-1960s. The EFSB in Berlin-Lichtenberg witnessed an explosion in the number of gynecological cases from 177 in 1966 to 698 in

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<sup>116</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 2, Beyer, Vermerk betr. 1. Rostocker Fortbildungstage über Probleme der Ehe- und Sexualberatung vom 22. bis 24. Oktober 1965, MdJ, HA Recht, Berlin, October 27, 1965, 4 of document, 120 of archival file.

<sup>117</sup> BArch Berlin-Lichterfelde, DQ1 3458, Berichterstattung über die Durchführung von medizinisch-wissenschaftlichen Veranstaltungen in der DDR, Formblatt Nr. 6 (nur für den Dienstgebrauch), Rostock, June 1, 1966, 3 of document, unpaginated archival file.

<sup>118</sup> Ibid., 4 of document, unpaginated archival file.

<sup>119</sup> Ibid., 17 of document, unpaginated archival file.

1968, whereas the number of psychiatric or neurological cases (110 in 1966, 187 in 1968), legal cases (sixty-nine in 1966, 109 in 1968), and psychological or pedagogical cases (fifty-seven in 1966, 105 in 1968) grew much more modestly.<sup>120</sup> Despite the dramatic increase in the number of gynecological cases, the number of prescriptions issued by the EFSB for Ovosiston grew in a rather restrained fashion from seventy-three in 1966 to 115 in 1968; the number of intrauterine pessaries dispensed grew from none in 1966 to twenty in 1968. Thus, the EFSB was rather reluctant to give out contraceptives despite the fact that the number of visitors requesting an abortion went from “N/A” in 1966 to 103 in 1968.<sup>121</sup>

Attendees at the 1967 Third Continuing Education Conference in Rostock for ESB counselors learned that the East German government was looking into intrauterine pessaries as a less costly alternative to hormonal contraception. To counter the objections of the sizable number of East German doctors who considered pessaries to be “taboo” in the mid-1960s, conference organizers pointed out that one million women worldwide were making use of IUDs and that more recent experiments involving the Gräfenberg ring did not replicate the “bad experiences” of the 1930s.<sup>122</sup> Yet the GDR’s own efforts to assess the efficacy of pessaries had not exactly produced stellar results. Experiments with IUD usage in Leipzig had yielded a 40 percent failure rate because of women’s inability to tolerate the presence of the pessaries in their bodies, as opposed to a failure

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<sup>120</sup> The acronym EFSB denoted a hybrid counseling center resulting from the merger of an ESB and an EFB.

<sup>121</sup> BArch Berlin-Lichterfelde, DP1 VA 1757, Jahresbericht 1968 der EFB [sic] Berlin-Lichtenberg, sent by Ms. Müller, Stadtbezirksgericht Berlin-Lichtenberg, to Karl-Heinz Eberhardt, MdJ, HA IV, Berlin, April 9, 1969, unpaginated document, 166-167 of archival file.

<sup>122</sup> BArch Berlin-Lichterfelde, DQ1 3458, Berichterstattung über die Durchführung von medizinisch-wissenschaftlichen Veranstaltungen in der DDR, Formblatt Nr. 6 (nur für den Dienstgebrauch), Rostock, June 1, 1966, 3, 7-8 of document, unpaginated archival file.

rate of 10 percent in a Czechoslovakian study. Because of these hesitations about both the Pill and intrauterine pessaries, ESB counselors at the 1967 conference ultimately took home the message that “an ideal contraceptive does not yet exist.” Also, East Germany’s family planning practices were presumably subject to greater international scrutiny since the GDR’s Society for the Protection of Health had become a member of the International Planned Parenthood Federation (IPPF) in 1967 and the leader of that Society, none other than Karl-Heinz Mehlan, was on the IPPF’s board.<sup>123</sup>

During the years leading up to the legal mandate for the free distribution of contraception and legalization of first-trimester abortion in 1972, there was an uneven, but nonetheless profound, shift in professional opinion regarding the potential drawbacks of Ovoston. Even though Lykke Aresin and her husband prescribed the Pill primarily to women who suffered from illness or who already had a large number of children, she expressed surprise in 1968 at how much “freer and more alive to sexual experiences” they became—a reaction that she did not expect on the part of women who had received the Pill for reasons of hardship.<sup>124</sup> If the Pill could elicit this kind of sexual abandon from women for whom the fear of pregnancy had made sexual intercourse a potentially life-threatening burden, then who knows what the effect would be for women who had not gone through such hardship? It was for this reason that doctors had to be “particularly diligent and conscientious” when deciding whether or not to prescribe hormonal contraception. Aresin’s not-so-implicit fear was that if younger women in particular

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<sup>123</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, unnumbered volume (5 in sequence), Karl Romund, Bericht über die 3. Rostocker Fortbildungstage der Arbeitsgemeinschaft (hereafter AG) Ehe und Familie in der DDR, MdJ, Berlin, November 2, 1967, 2-3 of document, 26-27 of archival file; BArch Berlin-Lichterfelde, DP1 VA 1446, unnumbered volume (5 in sequence), program brochure for 3. Rostocker Fortbildungstage: Probleme der Ehe- und Sexualberatung, undated but from 1967, 30 of archival file.

<sup>124</sup> Aresin, *Sprechstunde des Vertrauens*, 59.

became too accustomed to having sexual encounters without consequence, they would lose their desire to become pregnant at all.<sup>125</sup>

But just a few years later, in 1971, Aresin seemed more concerned with refuting the fear that the Pill might lead to a diminution in the capacity of women to experience sexual pleasure than she was in addressing the potential sexual profligacy and lack of desire for children that use of the Pill supposedly might entail. In a survey that Aresin conducted (presumably with visitors to her counseling center, although she did not divulge the provenance or number of her interlocutors), 47 percent of women using the Pill whom she had polled reported no reduction in their capacity to experience sexual pleasure while 35 percent felt that the Pill exerted a positive influence over their sex lives because they no longer had to worry about the prospect of unwanted pregnancy. Only 18 percent of women who made use of hormonal contraception mentioned any negative effects of the Pill on their capacity to derive pleasure from sexual activity. Concern for women's sexual well-being was, to be sure, not the only reason for more explicit discussion of contraceptive use; just one year before the decriminalization of abortion, an article in the popular magazine *Deine Gesundheit (Your Health)* urged women to resort to contraception to avert terminations of pregnancies since the negative health consequences of terminated pregnancies were "often overlooked."<sup>126</sup>

Aresin might have taken her cue from fellow participants at the Fourth Continuing Education Conference for ESB counselors that took place in Rostock in 1968 who argued that the wider availability of contraception was an integral part of recognizing sexuality

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<sup>125</sup> Aresin, *Sprechstunde des Vertrauens*, 61.

<sup>126</sup> "Wunschkindpille" (part of "Tatsachen, Tendenzen, Theorien" rubric), no authorial attribution, *Deine Gesundheit* 3 (March 1971), 78. *Deine Gesundheit* had a lay readership of about one million per month by the mid-1970s: Gerhard Misgeld, untitled editorial foreword, *Deine Gesundheit* 7 (July 1975), 194.

as a “basic human need.” Gerhard Misgeld, Full Professor (*Ordinarius*) of Psychopathology at the Humboldt University of Berlin, and Dr. Bernd Bittighöfer of the Institute for Social Sciences at the Central Committee of the SED contended that the provision of birth control was necessary for the full realization of gender equality under socialism. The full development of human capabilities was feasible in marriage provided that neither spouse felt inhibited—and Misgeld and Bittighöfer recognized that the prospect of an unwanted pregnancy might very well constitute such an inhibition.<sup>127</sup> Misgeld and Bittighöfer were not afraid that increased access to contraception would result in a diminution in the GDR’s birth rate or a rise in immorality (*Unsittlichkeit*) because they were confident that the populace’s ever-increasing level of socialist consciousness would serve as a bulwark against sexual profligacy.<sup>128</sup>

A similar shift was occurring in the discussion of abortion at the ESB counseling conferences.<sup>129</sup> In 1966, Mehlan estimated that there were 60,000 abortions in the GDR every year, with 10,000-15,000 of these procedures resulting in severe health problems, 3,000-5,000 inducing sterility, and sixty causing death.<sup>130</sup> For every three to four live births, there was one abortion. While Mehlan noted that the overall number of abortions

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<sup>127</sup> BArch Berlin-Lichterfelde, DP1 VA 1757, MdJ, Berlin, Bericht über die IV. Rostocker Fortbildungstage [October 3-5, 1968], 2 of document, 109 of archival file.

<sup>128</sup> Ibid.

<sup>129</sup> A new set of regulations went into effect in 1965 that provided commissions with the discretion to approve abortions in cases in which the woman requesting a termination of her pregnancy was a) under the age of sixteen, b) over the age of forty, c) already the mother of five children, d) already the mother of four children with the last birth having occurred within the previous fifteen months, e) the victim of rape or incest, or f) psychologically incapable of carrying a fetus to term. Atina Grossmann, “‘Sich auf ihr Kindchen freuen’: Frauen und Behörden in Auseinandersetzungen um Abtreibungen, Mitte der 1960er Jahren,” in *Akten—Eingaben—Schaufenster: Die DDR und ihre Texte: Erkundungen zu Herrschaft und Alltag*, eds. Alf Lüdtke and Peter Becker (Berlin: Akademie-Verlag, 1997), 241-257, here 250.

<sup>130</sup> The number of abortions in Weimar Germany had been much higher: there were an estimated 875,750 abortions in Germany in 1924, and more than a million terminated pregnancies per year between 1929 and 1931; see Willem Melching, “‘A New Morality’: Left-Wing Intellectuals on Sexuality in Weimar Germany,” *Journal of Contemporary History* 25 (1990): 69-85, here 74.

had declined, its incidence was on the rise for younger, childless, and single women. Mehlan's proposed solution to this in 1966 was not to reform the criminal status of abortion, but instead to provide more parenting and marital preparation seminars for those intending to wed.<sup>131</sup> What Mehlan did not mention, however, was that abortion commissions were supposed to refer women whose requests for abortion were denied to counseling centers. This guideline reflected the *de facto* recognition that the extensive restrictions on abortion, ostensibly designed to "protect" women from its harmful consequences, could have deleterious repercussions themselves.<sup>132</sup> But it also provided a new forum in which women could express their dissatisfaction with the punitive abortion statute:

Frustrated and angry with decisions by local commissions, women, in petitions to the Ministry of Health, argued for their right to a legal abortion by exploiting the rhetoric of socialist citizenship and promises of social participation for women contained in the [Law for the Protection of Mothers and Children]. Women did not accept the ruling logic that because the state had now provided (ostensibly) adequately for children, they should always bear them willingly.<sup>133</sup>

Only two years later, and perhaps in response to popular protest, participants at the 1968 ESB conference were calling for expanding the scope of allowable abortions beyond those designed to prevent an endangerment of the life or health of the mother to

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<sup>131</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, Vermerk über die Teilnahme an den 2. Rostocker Fortbildungstagen über Probleme der Ehe- und Sexualberatung vom 16. bis 18. Oktober 1966, veranstaltet von der AG Ehe und Familie in der GfG, Walter Krutzsch, MdJ, Sekretariat des Ministers, Berlin, October 24, 1966, 3 of document, 99c of archival file.

<sup>132</sup> BArch Berlin-Lichterfelde, DP1 VA 1757, Stellvertreter von Neudert, Direktor des BG Schwerin, to MdJ, HA IV, Berlin, Betreff: Bericht über die Tätigkeit der Ehe- und Familienberatungsstellen im Bezirk Schwerin, September 10, 1968, 3 of document, 83 of archival file. Abortion approval commissions asked demoralizing questions of many women and not infrequently took so long to deliberate on a case that the legal window for a legally permissible abortion would close in the interim. Friedrich-Ebert-Stiftung, ed., *Familienpolitik*, 35.

<sup>133</sup> Grossmann, "Pronatalism, Nationbuilding, and Socialism," 459.

include both a “social-medical indication” (to maintain ideal birth spacing and prevent premature pregnancies, pregnancy outside of marriage, too many children in a family, and illegal abortions) and a “social indication” if a pregnancy endangered a woman’s vocational training.<sup>134</sup> Lykke Aresin went so far as to admit that other state-socialist and Scandinavian countries allowed abortion for “social reasons.” While the GDR supposedly did not need a “social indication” because of the “ongoing improvement of our standard of living,” she admitted that counselors faced with East German women requesting an abortion should take their social circumstances into account as an “ancillary,” albeit not a determinative, factor.<sup>135</sup> Aresin was taking advantage of discretionary wiggle room afforded by a relaxation of abortion restrictions in 1965, but her choice to highlight the fact that East Germany’s socialist neighbors had a fully fledged social indication for abortion that the GDR lacked could not have been unintentional.<sup>136</sup>

These public breaches with protocol were undoubtedly harbingers of the impending change in the law:

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<sup>134</sup> BArch Berlin-Lichterfelde, DP1 VA 1757, MdJ, Berlin, Bericht über die IV. Rostocker Fortbildungstage [October 3-5, 1968], 2-3 of document, 109-110 of archival file.

<sup>135</sup> Aresin, *Sprechstunde des Vertrauens*, 65-66.

<sup>136</sup> Beginning in March 1965, abortion commissions in the GDR could approve termination of pregnancy on the basis of age (i.e., women over the age of forty or under the age of sixteen), fecundity (mothers with more than five children), pregnancies resulting from race or incest, and pregnancies in rapid succession (i.e., giving birth to a fourth child fewer than fifteen months after giving birth to a third child). Women who circumvented the commission approval system and obtained an illegal abortion would henceforth be subject to punishment by public shaming and condemnation rather than jail time. Harsch, “Society, the State, and Abortion,” 62-63; Hahn, *Modernisierung und Biopolitik*, 236. As a consequence of this reform and a new target rating for abortion approvals of approximately 70 percent, the number of legal abortions rose exponentially, from 739 to 825 annually between 1959 and 1962 to roughly 21,000 annually between 1966 and 1970. Hahn, *Modernisierung und Biopolitik*, 234; Harsch, “Society, the State, and Abortion,” 80. West Germany was also moving towards a less punitive stance, as abortion prosecutions declined in the FRG from 1,186 in 1964 to 319 in 1970; see Edward Ross Dickinson, “Policing Sex in Germany, 1882-1982: A Preliminary Statistical Analysis,” *Journal of the History of Sexuality* 16, no. 2 (May 2007), 204-250, here 240.

Although [the] precise timing [of the Abortion Law of 1972] was influenced by the possibility of visa-free travel to Poland (with the consequent possibility of obtaining abortions across the border), this law [...] was, more importantly, the culmination of a longer period of debate and the shifting climate of opinion in the 1960s. A younger, more female medical profession agreed with many women that individual freedom of choice was important, and the high disease and mortality rates associated with illegal abortions were now taken as arguments in support of legalisation, rather than used as evidence against abortion altogether.<sup>137</sup>

A countervailing argument maintains that there were no premonitions in the discourse of East German experts about the scope of reproductive law reform that would occur in 1972. Daphne Hahn, for instance, has maintained that even though figures like Aresin brought up more expansive abortion legislation in other countries during the 1960s, they did not invoke such statutes as models that the GDR was necessarily bound to follow. Hahn's perspective minimizes the importance of the incremental shifts underway especially by the late 1960s because she has not found explicit mention of "abortion on demand" (*Fristenlösung*) in East German discourse of the time.<sup>138</sup> But the evolution of expert opinion did not necessarily have to invoke the term *Fristenlösung* to prepare the ground for the decriminalization of abortion.

Not long after the legal reform, however, an official amnesia set in that failed to acknowledge that abortion had ever been criminalized or that the use of contraception had ever been stigmatized or restricted in the GDR. When East German adolescents saw

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<sup>137</sup> Mary Fulbrook, *The People's State: East German Society from Hitler to Honecker* (New Haven, CT and London: Yale University Press, 2005), 153; Harsch, "Society, the State, and Abortion," 82. To minimize the potential drop in the birth rate that would result from more readily available contraception and abortion, the East German state increased the financial bonus for the birth of a child to 1000 Marks on May 10, 1972 and increased maternity leave to twenty weeks (twenty-two weeks in the event of multiple births). Furthermore, women who went on leave from work could receive a maternity stipend for up to one year, with extensions possible up to three years thereafter if suitable day care options were not available. These measures did not have a discernible impact on the East German birth rate during the early to mid-1970s. Friedrich-Ebert-Stiftung, ed., *Familienpolitik*, 35-36.

<sup>138</sup> Hahn, *Modernisierung und Biopolitik*, 269.

a 1974 production of physician and KPD member Friedrich Wolf's 1929 play "Cyankali," which criticized the criminalization of abortion in Weimar Germany as a form of institutionalized discrimination against working-class women, they felt that "watching [the play] is like confronting the Middle Ages" since they "never really realized the bitter consequences that pregnancy can have under different societal circumstances."<sup>139</sup> "Different societal circumstances" referred, of course, to capitalism. But the reactions imputed to these teenagers did not include even the slightest recognition that similarly "medieval" conditions and attitudes regarding the legal status of abortion had prevailed in the GDR until its decriminalization just two years earlier. This amnesia continued into the 1980s; an article chronicling the history of marital and sexual counseling and attitudes towards abortion prior to the existence of the GDR appeared in *Deine Gesundheit* in October 1984, but the author made no mention of why it took the SED until the 1970s to resume with any semblance of conviction the Weimar-era KPD's reform initiatives with regard to contraception and abortion.<sup>140</sup>

With regard to birth control, officially sanctioned discourses no longer spoke of the Pill as potentially inducing licentious behavior, but instead as providing young unmarried women in particular with the means to demonstrate a responsible attitude towards sexual activity.<sup>141</sup> An anecdote that appeared in *Deine Gesundheit* in 1972 is

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<sup>139</sup> Berndt Siegmund, "Cyankali: Schauspiel von Friedrich Wolf im Friedrich-Wolf-Theater," *Deine Gesundheit* 3 (March 1974), 70-72, here 71.

<sup>140</sup> Annegret Hofmann, "Zu Besuch. In der Ehe- und Sexualberatung," *Deine Gesundheit* 10 (October 1984), 316-318. According to Atina Grossmann, "[s]exual politics [had] provided a way for the [Weimar-era] KPD [...] both to develop a popular mass line [...] and to propagandize the virtues of a Soviet Union which had been the first country in the world to legalize abortion and formulate a comprehensive program for 'the protection of mother and child.'" Grossmann, *Reforming Sex*, 36.

<sup>141</sup> A similar broadening of the availability of the Pill had already been underway in Great Britain since the mid-1960s; as in the GDR, "[b]etween 1955 and 1975, the British government moved from being almost wholly uninvolved in the provision of contraception to free provision of contraception to all women and

illustrative of this rhetorical transformation. Gerhard Misgeld wrote of a female music student who asked her mother if it would be acceptable for her to go on a camping trip with her longtime male schoolmate. Her mother did not object, but she did advise her daughter to make sure that she had contraception close at hand. To this end, the ever-dutiful daughter went to a doctor's office in Berlin in mid-July 1972. A nurse asked her, within earshot of other patients in the waiting room, why she had come, and when she said that she wanted to obtain Ovosiston, the nurse mockingly "replied by asking whether she had already used up her previous package." The girl responded, "I have never taken Ovosiston, but I would like to start." The nurse then asked, "How old are you?" When the young woman indicated that she was sixteen,

in one second, all of the girl's self-esteem, built with the help of parents, school, and the Free German Youth, was shattered. First the nurse, then all of the other women in the waiting room began to laugh loudly, derisively, and raunchily. The nurse put her arm around the girl's shoulders, gave her a "motherly" pat on the back, and shoved her out the door while saying, "Well, little girl, then come back in two years."<sup>142</sup>

The nurse had cavalierly violated the young woman's privacy, and had allowed her own "narrow moral views shaped by the opinions of the past" to serve as a pretense for denying "someone access to the possibilities offered by science for the responsible shaping of one's life." For Misgeld, this episode revealed a failure of empathy, a failure to observe the law, and a failure to provide a young woman with the tools to ensure her

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men regardless of age or marital status." Hera Cook, *The Long Sexual Revolution: English Women, Sex and Contraception 1800-1975* (New York: Oxford University Press, 2004), 272, 290, 295, quotation from 296. This was another instance in which the SED recalibrated "socialist" values to justify a profound societal shift that was transnational in scope.

<sup>142</sup> Gerhard Misgeld, untitled editor's foreword, *Deine Gesundheit* 9 (September 1972), 258.

“absolute bodily, mental, and social well-being.”<sup>143</sup> Of course, Misgeld’s condemnation of the nurse’s injudicious conduct would presumably have carried more weight with *Deine Gesundheit* readers if it had not been preceded in quite recent years by many sexual experts’ aversion to making the Pill available to healthy, unmarried young women. But he perhaps had this in mind when he criticized gynecologists who complained that “only one-tenth of the women seeking abortion are informed about contraception” and the fact that these doctors tended to place the blame for this ignorance solely on the shoulders of parents, schools, and societal institutions. In Misgeld’s estimation, these gynecologists should instead have been more diligent about ascertaining the extent to which their own colleagues—like the nurse maligned in this cautionary tale—were part of the problem rather than the solution.<sup>144</sup> Proponents of contraception at the counseling centers and the East Germans who consulted them in large numbers had contributed to the eventual, albeit far from monolithic, acceptance of birth control as an officially sanctioned and morally unobjectionable aspect of socialist family life.

### **Was Wilhelm Reich Correct about the Socialist Taking the Doctor’s Place?**

On the whole, relationship counseling centers that were known to harbor empathetic, knowledgeable medical professionals who were willing to dispense family planning advice and contraceptives were among the most popular in the GDR during the 1960s. While this is doubtlessly true, I do not, however, assume that medical counseling was intrinsically more appealing than its non-medical counterpart because East Germans deemed the former to be free of the objectionable socialist ideological taint that marred

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<sup>143</sup> Ibid.

<sup>144</sup> Ibid.

the latter.<sup>145</sup> Instead, I draw upon the analytical approach of Michael Hau, who has argued that at the turn of the century, various expert and lay discourses and practices, although at times ostensibly contradictory, contributed to solidifying the societal salience of the medicalization paradigm. This was the case because the competing paradigms actually subscribed to many of the same assumptions regarding beauty and hygiene—even if they did not acknowledge as much.<sup>146</sup>

The practice of medicine in the GDR was supposed to be inflected by a socialist sensibility. Socialist medicine was to serve as “the embodiment of the intended unity of individual and societal interests” and, as such, constituted “the best form of prophylaxis.”<sup>147</sup> The medicalization of East German relationship counseling thus did not represent the triumph of the “modern” or “individualistic” over the “collective” or “traditional” forms of counseling favored by non-medical experts within the SED. But it did become the fulcrum around which disputes over counseling methodology in the GDR would unfold. An institution that was intended to augur a new era of marital harmony actually spawned conflict among the counselors themselves.

The existence of a significant rift between medical and judicial experts suggests that the “psychologization of the socialist self” remained contested terrain within and beyond governmental circles. During the Weimar era, one of the primary fault lines in the world of relationship counseling ran between public and private counseling centers. Given the absence of private counseling centers in the GDR, the lack of discursive space

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<sup>145</sup> For the sake of brevity, I use the term “medical counseling” as a catchall for somatic, psychiatric, and psychological approaches to marital therapy and birth control counseling.

<sup>146</sup> Michael Hau, *The Cult of Health and Beauty in Germany: A Social History, 1890-1930* (Chicago: University of Chicago Press, 2003), 2-5.

<sup>147</sup> Hahn, *Modernisierung und Biopolitik*, 207; Gerhard Misgeld, untitled foreword, *Deine Gesundheit* 9 (September 1977), 258.

for contesting the SED's vision for state-supervised counseling centers, and the diminished public presence of religious authorities in relationship counseling, contestation over counseling methodology in East Germany took the form of a dispute over professional territory between legal and medical professionals.<sup>148</sup> Indeed, the rivalries that had existed between public and private purveyors of counseling during the Weimar era were replaced by disputes between the Ministry of Justice and the Ministry of Health. The DFD, which sought to make known the singular dedication of its members to the cause of improving marital relationships, played at most an ancillary role, both in the counseling centers themselves and in the debates over how they should be run.<sup>149</sup>

To the extent that relationship counseling had been available in the GDR prior to 1965, it came in the form of ESBs that reported to the Ministry of Health; by virtue of the fact that ESBs featured a predominantly medical staff, these counselors were attuned to the proclivities of visitors who “until now have been inclined to seek counseling from a professional expert.”<sup>150</sup> Judges employed in the region of Karl-Marx-Stadt could not help but concede that doctors were considered to be ““father confessors”” in some areas,

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<sup>148</sup> To be sure, antagonism between Communist ideology and medical science was not specific to the GDR. As Dan Healey has noted, “The Five Year Plan and the accompanying campaigns [in the USSR during from the late 1920s into the 1930s], against ‘biologizing’ in the human sciences, and for class-consciousness and party-mindedness in intellectual work [...] took custody of various social problems away from the realm of medicine.” Healey, *Homosexual Desire in Revolutionary Russia*, 180.

<sup>149</sup> SAPMO-BArch (Berlin-Lichterfelde) DY 31/1066, Bundesvorstand des DFD, Kommission “Frau und Staat,” Berlin, February 28, 1969, Bericht über die Entwicklung der Ehe- und Familienberatungsstellen in der DDR und ihre Wirkung auf die Herausbildung sozialistischer Familienbeziehungen, unter besonderer Beachtung der Rolle des DFD. Interestingly, DFD members’ efforts to claim a role for themselves in marital counseling served as a distinct echo of late-nineteenth and early-twentieth-century bourgeois women activists who sought to carve out the familial domain as their point of entry into the public sphere. For an account of earlier maternalist feminism, see Karen Offen, *European Feminisms, 1700-1950: A Political History* (Stanford: Stanford University Press, 2000).

<sup>150</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, Bericht über den Stand der Bildung und der Tätigkeit der Ehe- und Familienberatungsstellen in der DDR, MdJ, Berlin, March 7, 1967, 6 of document, 152 of archival file.

and they hoped that medical professionals could be convinced to refer patients to EFBs for non-medical counseling when appropriate. Since doctors commanded public trust, according to these judges, their patients would presumably be more likely to follow their recommendations than heed exhortations to seek out the services of an EFB that came from other sources.<sup>151</sup>

Harsch characterizes the “revival of ‘family and sexual counseling’ [as bespeaking] the rising influence of medical experts on social policy.”<sup>152</sup> It is precisely for this reason that numerous Ministry of Justice officials expressed their frustration at the desire of doctors to assert a hegemonic role in marital counseling. The “softer” version of this critique came in the form of arguing for the necessity of multiple professional approaches in solving the invariably complex array of problems faced by married couples and families, and noting that prudent health experts agreed with jurists on this point. A Ministry of Justice report noted that:

Doctors maintain that marriage counseling should limit itself primarily to medical questions—precisely a continuation of the tradition of the

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<sup>151</sup> Even though these judges placed their hopes upon medical specialists to generate a steady stream of visitors to EFBs, the Ministry of Justice expected that the EFBs would solicit and receive referrals not only from doctors, but also from the DFD, FDJ, district courts and district attorneys, and local governmental ministries. See DP1 VA 1445, Band 1, Schema für eine Befragung der Eheberatungsstellen, April 14, 1965, 82 of archival file. But the district courts were by and large not helping to overcome the reservations of potential EFB visitors, since they frequently did not refer couples whose request for divorce had been denied to EFBs to work out their marital troubles. Instead of ascribing this trend to a lack of confidence in the EFBs’ ability to provide much in the way of help, however, some judicial officials attributed this lack of referrals to the fact that in many cases, the judge who denied the request for divorce would also be the EFB counselor, even as they acknowledged that the judge could conceivably summon another court official to take her or his place (temporarily) in the EFB. See BArch Berlin-Lichterfelde, DP1 VA 1757, Band 5, Bericht über den Erfahrungsaustausch der in den Ehe- und Familienberatungsstellen tätigen juristischen Mitarbeiter aus den Bezirken Frankfurt/Oder, Halle und Karl-Marx-Stadt, July 1970, 13 of document, 201 of archival file. Paul Betts also discerns a drop in the frequency with which judges referred feuding spouses to counseling centers during the 1980s. Betts, *Within Walls*, 113. But judges’ reservations about the advisability of such referrals had roots that extended back into the 1960s, and referral rates had consequently been modest all along.

<sup>152</sup> Harsch, “Sex, Divorce, and Women’s Waged Work,” 109.

doubtlessly useful Marital and Sexual Counseling Centers. It is said in support of this opinion that the Legal Counseling Centers of the courts and pedagogical counseling centers can address legal and pedagogical problems. The disadvantage of such a solution is that it tears apart along professional lines the problem areas of such socially important institutions as marriage and family—problem areas that are inextricably intertwined with one another. For this reason, preference should be given to a counseling center that essentially encompasses all of these problem areas. The Ministry of Health and doctors with extensive specialist experience, like Professor [Elfriede] Paul, agree with this point of view.<sup>153</sup>

The tension between medical and juridical expertise was more overt at the first conference for ESB counselors in 1965. At the same time that the Ministry of Justice was preparing to launch the rapid expansion of EFBs, the Ministry of Health was mulling over new guidelines for expanding its own network of ESBs. None other than conference organizer Karl-Heinz Mehlan was responsible for drafting these ground rules in his capacity as director of the Working Group on Marriage and Family at the Society for the Protection of Health. In explaining the Ministry of Health's intentions, Dr. Dolberg and Dr. Geißler "attempted to defend their one-sided perspective on these questions," according to Dr. Beyer, who had been invited to attend the conference on behalf of the Ministry of Justice. The situation did not get any better when Krutzsch of the Ministry of Justice gave a joint presentation with Chief Medical Officer (*Obermedizinalrat*) Dr. Rayner on the topic of collaboration between ESBs and EFBs. In Beyer's view, Rayner was overly defensive about the doctor's primacy in counseling and proved to be a bad speaker to boot. Only after the roundtable discussion at the conclusion of the conference was a consensus reached that a unitary system of marital and family counseling was

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<sup>153</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 2, Bericht über die Struktur und Arbeitsweise der bisher tätigen Eheberatungsstellen, August 19, 1965, 11 of document, 39 of archival file.

necessary due to the complex nature of marital and family questions, and that the role of doctors in this complex must be secured.<sup>154</sup>

But this consensus was a tenuous one at best. Not long before the Second Continuing Education Conference for ESB counselors in 1966, Dr. Rayner had sent a draft of the guidelines for ESBs to Krutzsch for constructive feedback. According to these guidelines, the ESBs were supposed to foster individual happiness, fulfilling relationships, and harmonious familial life, all of which were believed to be conducive to good health and a robust capacity for work (*Leistungsfähigkeit*). Interestingly, increasing couples' reproductive success was not part of this list.<sup>155</sup>

Krutzsch was not pleased that the Ministry of Health was setting the same goals for ESBs as the Ministry of Justice was stipulating for EFBs. He felt that EFBs were uniquely positioned to address marital and familial problems from multiple perspectives—including pedagogical and medical ones—without impinging upon the professional prerogative of existing counseling centers operated by the Ministries of Education and Health.<sup>156</sup> Because of the recalcitrance of local health authorities, however, many EFBs faced obstacles in fulfilling their objectives, and thus Krutzsch expected that the Ministry of Health's new guidelines would emphasize the responsibility of district medical officers (*Kreisärzte*) to provide sufficient medical personnel for *both* EFBs and ESBs. Some

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<sup>154</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 2, MdJ, HA Recht, Berlin, October 27, 1965, Vermerk Betr: 1. Rostocker Fortbildungstage über Probleme der Ehe- und Sexualberatung vom 22. bis 24. Oktober 1965 written by Beyer, 3 and 5 of document, 119 and 121 of archival file; BArch Berlin-Lichterfelde, DP1 VA 1445, Band 2, Rudolf Neubert, "Zur Diskussion über Ehe- und Familienberatungsstellen: Führende Rolle des Arztes," *Humanitas*, October 13, 1965, 108 of archival file.

<sup>155</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, Entwurf von Richtlinien über die Arbeitsweise und die Organisation von Ehe- und Sexualberatungsstellen in der Deutschen Demokratischen Republik, AG Ehe und Familie in der Sektion Hygiene und Gesundheitsschutz der Frau der GfG in der Deutschen Gesellschaft für die gesamte Hygiene, September 26, 1966, 2 of document, 191 of archival file.

<sup>156</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, letter from Walter Krutzsch, MdJ, Berlin, to Rayner, MfG, Berlin, October 13, 1966, 1 of document, 199 of archival file.

district medical officers were complaining that they could not staff an EFB with doctors because efforts to sustain an ESB took up all of their time and resources, but to Krutzsch, this kind of excuse was simply unacceptable. Krutzsch reminded Rayner that there were doctors who managed to juggle the responsibility of working in both EFBs and ESBs.<sup>157</sup>

The Ministry of Health's guidelines also neglected to remind health officials that there would be an EFB in every district and municipality in the foreseeable future or mention the ways in which existing ESBs could liaise with these newly established institutions. Krutzsch felt that the document left medical authorities with the false impression that ESBs were in a position to solve all problems related to familial life; in other words, even if they did not explicitly state that the establishment of EFBs would be superfluous given the superiority of ESBs' medical focus, it would not be difficult for an otherwise uninformed (or willfully ignorant) reader to draw such a conclusion. He also pointed out that ESBs and EFBs in a number of municipalities managed to coordinate the location and timing of their consultation hours or even merge into unitary counseling centers (EFSBs) without losing sight of their respective strengths.<sup>158</sup> By October 1966, such mergers had already occurred in Magdeburg, Berlin-Lichtenberg, Berlin-Köpenick, and Leipzig, and by November 1967, the number of merged counseling centers in the GDR grew to nineteen.<sup>159</sup>

At the 1966 ESB counselor conference, Krutzsch attempted to resolve these discrepancies between the Justice and Health Ministries' visions for counseling centers

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<sup>157</sup> Ibid., 2 of document, 200 of archival file.

<sup>158</sup> Ibid., 2-3 of document, 200-201 of archival file.

<sup>159</sup> Ibid., 3 of document, 201 of archival file; BArch Berlin-Lichterfelde, DP1 VA 1446, unnumbered volume (5 in sequence), Karl Romund, Bericht über die 3. Rostocker Fortbildungstage der AG Ehe und Familie in der DDR, MdJ, Berlin, November 2, 1967, 2 of document, 26 of archival file.

by speaking with Rayner, Geißler, and Dr. Rothe. Out of these informal discussions emerged a set of mutually agreed upon propositions. EFBs and ESBs should work together closely, although the exact nature of this cooperation would depend upon local circumstances. This collaboration could take the form of organizational coalescence, as in the combined EFSB model, or by holding office hours at the same time and in the same building, having the same medical personnel at both the local EFB and ESB, and ensuring that EFBs and ESBs referred clients to one another. The parties to this conversation hoped to formalize their agreement in the form of a joint statement emanating from both ministries.<sup>160</sup>

The dialogue between Krutzsch and his counterparts at the Ministry of Health did bear some fruit. The Ministry of Justice began to move away from strict adherence to § 4 of the FGB, which would have entailed establishing an EFB in every municipality even when the values of pragmatism and parsimony dictated otherwise. A ministerial directive from 1966 stipulated that it was not in fact necessary to establish an EFB in every municipality in a given district. The Karl-Marx-Stadt Regional Council mistook this to mean that EFBs were *only* to be established in large regional urban centers like Karl-Marx-Stadt, thereby incorrectly absolving the Hainichen District Council of the responsibility to establish a local EFB.<sup>161</sup> This misinterpretation of the directive is not surprising given the Ministry of Justice's own January 1969 assessment of the status of EFB formation, which maintained that it was acceptable for a single urban EFB to

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<sup>160</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, Vermerk über die Teilnahme an den 2. Rostocker Fortbildungstagen über Probleme der Ehe- und Sexualberatung vom 16. bis 18. Oktober 1966, veranstaltet von der AG Ehe und Familie in der GfG: Walter Krutzsch, MdJ, Sekretariat des Ministers, Berlin, October 24, 1966, 5-6 of document, 99e-99f of archival file.

<sup>161</sup> BArch Berlin-Lichterfelde, DP1 VA 1756—Karl-Marx-Stadt subsection, letter from Kuckoreit, Direktor des BG Karl-Marx-Stadt, to MdJ, Berlin, May 17, 1966, 1<sup>st</sup> page of document, unpaginated archival file.

encompass more than one city neighborhood or an urban area and its immediate rural environs.<sup>162</sup>

For its part, the Ministry of Health made a major concession when it issued Decree 3/68 in April 1968, following upon guidelines issued on January 8, 1968, which proclaimed that ESBs were to be considered as the medical branch of the more comprehensive, multi-disciplinary EFBs, thus implying the ultimate supremacy of the latter over the former.<sup>163</sup> Medical counseling would remain the predominant mode of counseling, but in the battle of wills between the Ministries of Health and of Justice, some medical professionals chose to be deferential towards their jurist colleagues in this instance, even if only on paper. Indeed, many medically trained counselors still strongly resisted the directive's contention that ESBs were junior partners in a unitary system of counseling dominated by EFBs, since they felt—and not without justification, at least as far as the relative popularity of ESB counseling was concerned—that ESBs were quite capable of handling the demand for marital counseling on their own. Even though Mehlan had been the primary author of earlier guidelines for ESBs that Krutzsch had criticized for slighting the stature of EFBs, Mehlan suddenly became the Ministry of

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<sup>162</sup> BArch Berlin-Lichterfelde, DP1 VA 1757, MdJ, HA IV, Berlin, Bericht über den Stand der Bildung und Tätigkeit der Ehe- und Familienberatungsstellen in den Bezirken und Kreisen, January 16, 1969, 1 of document, 114 of archival file.

<sup>163</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, Band 4, MdJ, Berlin, Aus der Wochenmeldung Bezirks Neubrandenburg, undated but presumably from mid-1968, 1-2 of document, 37-38 of archival file; BArch Berlin-Lichterfelde, DP1 VA 1446, unnumbered volume (5 in sequence), Entwurf: Richtlinie für die Tätigkeit des medizinischen Zweiges der Ehe- und Familienberatung (Ehe- und Sexualberatung), sent by H. Rayner, Mit freundlichen Grüßen, Berlin, to Karl-Heinz Eberhardt and Walter Krutzsch, MdJ, Berlin, March 17, 1967, 2 of archival file; BArch Berlin-Lichterfelde, DP1 VA 1757, MdJ, HA IV, Berlin, evaluation of EFB reports from Bezirksgerichte, Stand Oktober 1968, 3 of document, 101 of archival file.

Justice's hero for criticizing colleagues who felt that ESBs should monopolize the field of East German relationship counseling.<sup>164</sup>

But as Karl-Heinz Eberhardt of the Ministry of Justice pointed out, the Ministry of Health continued to insist on the establishment of ESBs in all municipalities. While many local officials had argued that it was unnecessary to establish an EFB in municipalities where a functional ESB already existed, the Ministry of Justice turned this line of reasoning on its head—the Ministry felt that the founding of EFBs should take precedence over the creation of ESBs where demand or resources were insufficient to sustain both institutions.<sup>165</sup> Geißler of the Ministry of Health worried that if ESBs did not continue to exist in their own right, then sexual counseling would get short shrift, but he ultimately adopted a conciliatory stance in favor of EFSBs that would combine the best attributes of both types of counseling centers.<sup>166</sup>

### **What's in a Name?**

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<sup>164</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, unnumbered volume (5 in sequence), Karl Romund, Bericht über die 3. Rostocker Fortbildungstage der AG Ehe und Familie in der DDR, MdJ, Berlin, November 2, 1967, 1 of document, 25 of archival file.

<sup>165</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, unnumbered volume (5 in sequence), letter from MdJ, HA IV, Berlin, to Mit freundlichen Grüßen, Berlin, Organisation des Gesundheitsschutzes, Sektor Gesundheitsschutz für Mutter und Kind, Betreff: Entwurf der Richtlinie für die Tätigkeit des medizinischen Zweiges der Ehe- und Familienberatungsstellen (Ehe- und Sexualberatung), April 5, 1967, 9 of archival file.

<sup>166</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, Vermerk über die Teilnahme an den 2. Rostocker Fortbildungstagen über Probleme der Ehe- und Sexualberatung vom 16. bis 18. Oktober 1966, veranstaltet von der AG Ehe und Familie in der GfG, Walter Krutzsch, MdJ, Sekretariat des Ministers, Berlin, October 24, 1966, 4 of document, 99d of archival file. There is evidence that the dispute between legal and medical expertise never fully dissipated in the field of East German relationship counseling. In the 1980s, a family court judge in the town of Lüritz felt that her role as an adjudicator of marital disputes in divorce cases was undermined by medical counseling offered to couples whose relationship troubles stemmed from sexual problems: “‘He [i.e., the director of the local relationship counseling center] concentrates primarily on the medical aspects [of a problem] [...] [at the expense of] ‘the societal purposes of marriage and family.’” Markovits, *Gerechtigkeit in Lüritz*, 119.

The naming of the counseling centers proved to be a subject of controversy that reflected competing visions about the goals of East German relationship counseling not only in terms of its methodology, but also its target audience. Official ambivalence regarding the role of sexuality in relationship therapy extended to the question of whether or not to include the word “sexual” in the name of relationship counseling centers. By removing the word “sexual” from the name of the EFBs envisioned in the 1965 FGB draft, the Ministry of Justice was effectively dissuading the unmarried from seeking therapy, according to Dr. Oerter of the Ministry of Health. He explained that the Ministry of Health has

some reservations about the term “Marital and Family Counseling Center” deployed in the Family Law Code draft, since a) “marriage” of course falls under the rubric of “family” and b) not all problems having to do with the elimination of sexual disorders and contraception should be seen in connection with the concepts of “marriage” or “family.”<sup>167</sup>

The Ministry of Health’s commitment to broad outreach was echoed in its draft of proposed guidelines that emphasized that ESBs were open to adults and youth regardless of marital status.<sup>168</sup> In the interest of providing young couples with a sound basis for marriage, EFBs were ultimately interested in attracting an unmarried clientele as well, but even the popular Berlin-Lichtenberg EFSB only managed to attract twenty-six unmarried visitors in 1966 (out of a total of 400) and fifty-five unmarried visitors in 1968 (out of a

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<sup>167</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 1, Stellungnahme des Ministeriums für Gesundheitswesen zur Schaffung von Ehe- und Familienberatungsstellen im Sinne des Entwurfes des FGB der Deutschen Demokratischen Republik by Dr. Oerter, Obermedizinalrat, Abteilung Organisation des Gesundheitswesens, Berlin, May 13, 1965, 2 of document, 98 of archival file.

<sup>168</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, Entwurf von Richtlinien über die Arbeitsweise und die Organisation von Ehe- und Sexualberatungsstellen in der Deutschen Demokratischen Republik, AG Ehe und Familie in der Sektion Hygiene und Gesundheitsschutz der Frau der GfG in der Deutschen Gesellschaft für die gesamte Hygiene, September 26, 1966, 2 of document, 191 of archival file.

total of 1098). Visitors under the age of twenty were also in short supply: there were sixteen such visitors at the Berlin-Lichtenberg clinic in 1966 and thirty-three in 1968.<sup>169</sup>

The debate over the naming of counseling centers also seeped into the press. A 1965 interview with Berlin gynecologist Dr. Lothar Obgartel quoted him as saying that “[w]e consciously strive for the term marital and sexual counseling in contrast to the often declared marital and family counseling. This is not merely a play on words, [...] the naming should indicate that the counseling is not limited to those who are married or engaged.”<sup>170</sup> Obgartel defended his advocacy of the importance of including the word “sexual” in the title of the counseling centers by indicating that “[i]t is particularly important to imbue young and single people in particular with a sense of their responsibility and to prepare them for a happy marriage.”<sup>171</sup> Whether or not the word “sexual” was a mere stand-in for a course of “preparation for marriage” that did not necessarily prioritize sexual intimacy, the presence of the word was significant in and of itself because it asserted very publicly the centrality of medical expertise to the kind of counseling that the centers had to offer.

By 1978, Obgartel had apparently grown tired of the debate over naming; in contrast to his earlier stance, he now opined that it was “pointless” to “get worked up about the ‘nameplate’ (*Firmenschild*) or organizational framework of such counseling centers,” whether they be EFBs, ESBs, or EFSBs. In the end, Obgartel reminded his

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<sup>169</sup> BArch Berlin-Lichterfelde, DP1 VA 1757, Kuckoreit, Direktor des BG Karl-Marx-Stadt, to MdJ, HA IV, Berlin, Betreff: Ehe- und Familienberatungsstellen, September 9, 1968, 3 of document, 71 of archival file; BArch Berlin-Lichterfelde, DP1 VA 1757, Jahresbericht 1968 der EFB [sic] Berlin-Lichtenberg, sent by Müller, Stadtbezirksgericht Berlin-Lichtenberg, to Karl-Heinz Eberhardt, MdJ, HA IV, Berlin, April 9, 1969, unpaginated document, 166 of archival file.

<sup>170</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 2: “Gut beraten in die Ehe: Zu Familien- und Sexualproblemen—Tagung in Rostock,” an article in *NZ* by Karl-Georg Eickenjäger, 95 of archival file.

<sup>171</sup> *Ibid.*

readers, they all served the same purpose, namely that of “meeting the populace’s growing need for expert advice, treatment, and help regarding sexual, relationship, or familial problems.”<sup>172</sup> Even officials in Berlin sometimes viewed EFBs and ESBs as functionally interchangeable; some counseling centers were simultaneously listed as ESBs in Ministry of Health records and as EFBs in Ministry of Justice records.<sup>173</sup>

The Ministry of Justice adopted a decidedly different stance than Obgartel did in the mid-1960s. A 1965 report sought to make a strong case for using the term “marital and family counseling center”:

As far as the name is concerned, it seems as if the term used in the law’s draft—“Marital and Family Counseling Centers”—is the most advantageous one. To be sure, this term does not encompass the full range of counseling offered, since it does not include premarital sexual relationships. This would be the case with the term “sexual counseling.” The survey regarding marriage counseling has already revealed quite clearly, however, that the strongest reservations exist about counseling in sexual-erotic matters—a finding that stands in stark contrast to the prevailing practices of counseling centers. The name should not only aim to be as precise as possible, it must also provide the best strategy for overcoming existing reservations [on the part of the general populace]. For this reason the term suggested by doctors, “Counseling Center for Generational Questions,” must undoubtedly be rejected.<sup>174</sup>

Aside from its positioning on the question of naming, this report makes explicit one of the core paradoxes of relationship counseling in the GDR—namely, that East Germans who were supposedly reluctant to discuss sexual matters in theory demonstrated an insatiable appetite for doing so in practice. The SED was wary about fostering an

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<sup>172</sup> Lothar Obgartel, “Gut beraten,” *Deine Gesundheit* 2 (February 1978), 58-60, here 59.

<sup>173</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, unnumbered volume (5 in sequence), Karl Romund, Bericht über die 3. Rostocker Fortbildungstage der AG Ehe und Familie in der DDR, MdJ, Berlin, November 2, 1967, 2 of document, 26 of archival file.

<sup>174</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 2, Bericht über die Struktur und Arbeitsweise der bisher tätigen Eheberatungsstellen, August 19, 1965, 12-13 of document, 39 back side and 40 front side of archival file.

institution in which the often derided capitalist-style overvaluation of sexuality might flourish, but it also sought to capitalize upon the apparently pent-up need to speak about sex for its own larger goal of imparting “socialist” values and influencing the contours of East German marital and familial life. As Daphne Hahn has argued, the process of establishing a network of counseling centers enabled East Germans to explore the topic of sexuality to an unprecedented degree.<sup>175</sup>

Squabbles over professional predominance notwithstanding, the official Ministry of Justice guidelines stipulated that each EFB was to have a doctor, a pedagogical expert, a jurist, and a social worker as the bedrock of its staff, although the actual composition of counseling collectives varied widely.<sup>176</sup> The social worker alone was to receive a salary, while the other members of the counseling collective were to receive nominal honorariums, if they were remunerated at all.<sup>177</sup> By contrast, medical and psychiatric professionals who worked in ESBs received compensation for their efforts from the Ministry of Health; it was for this reason that doctors in some jurisdictions sought to convert EFBs into ESBs.<sup>178</sup> Doctors in the region of Erfurt were particularly obstreperous

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<sup>175</sup> Hahn, *Modernisierung und Biopolitik*, 280.

<sup>176</sup> Other kinds of EFB counselors included medical experts of various stripes (including psychiatrists, psychologists, gynecologists, and andrologists), housewives, youth welfare officials, DFD representatives, and, to a much lesser extent, SED or National Front representatives.

<sup>177</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 2, MdJ, Vermerk betr. Voraussichtliche Kosten, die bei der Einrichtung von Ehe- und Familienberatungsstellen entstehen, by Walter Krutzsch, Berlin, November 6, 1965, 132-3 of archival file. Marital and family counselors before 1933 had also worked on a largely voluntary basis; this was not merely a cost-saving measure implemented by the cash-strapped GDR; see Klautke, “Rassenhygiene, Sozialpolitik und Sexualität,” 298.

<sup>178</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, Bericht über den Stand der Bildung und der Tätigkeit der Ehe- und Familienberatungsstellen in der DDR, MdJ, Berlin, 7 March 1967, 2 (148 of archival file); BArch Berlin-Lichterfelde, DP1 VA 1446, Bericht über den Erfahrungsaustausch vom 13. Dezember 1966 der im Bezirk Karl-Marx-Stadt in den Ehe- und Familienberatungsstellen tätigen Richter, 1 of document, 103 of archival file. Complaints about doctors trying to convert EFBs into ESBs against the wishes of the Ministry of Justice continued until at least June 1967; see BArch Berlin-Lichterfelde, DP1 VA 1446, unnumbered volume (5 in sequence), letter from Hertha Jung, DFD Bundessekretärin, to Fritz

about the issue of pay because they believed—correctly, as it turned out— that medical experts were receiving pay in some EFBs in the region of Magdeburg. The directors of the Berlin-Mitte and Halle EFBs contemplated providing compensation for counselors, presumably to recruit professionals whose expertise was suddenly very much in demand given the rapid proliferation of counseling centers.<sup>179</sup>

Such problems were not isolated occurrences. Difficulty in recruiting suitable personnel was compounded by the exodus during the 1950s of doctors from East to West Germany. The Ministry of Justice did not fail to recognize that the quality of counseling was suffering in some districts due to the lack of qualified specialists, and that the Ministry of Health would have to do more to ensure that doctors who were already working in counseling centers possessed the requisite knowledge for the task at hand.<sup>180</sup> The guidelines for the operation of counseling centers were silent, however, about how they might fulfill their extensive responsibilities without a comprehensive and well-trained staff. They also did not address how the simultaneous proliferation of EFBs and ESBs was likely to cause severe strain upon a limited pool of resources and professional expertise for relationship counseling.

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Scharfenstein, Minister für die Anleitung und Kontrolle der Bezirks- und Kreisräte, Berlin, June 26, 1967 [copy of letter forwarded by Jung to Minister of Justice Kurt Wünsche], 2 of document, 17 of archival file.

<sup>179</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, MdJ, Berlin, Walter Krutzsch, Bericht über den Erfahrungsaustausch der im Bezirk Erfurt in den Ehe- und Familienberatungsstellen tätigen Richter vom 22. November 1966, 2 of document, 118c of archival file; BArch Berlin-Lichterfelde, DP1 VA 1446, unnumbered volume (5 in sequence), letter from Hertha Jung, DFD Bundessekretärin, to Fritz Scharfenstein, Minister für die Anleitung und Kontrolle der Bezirks- und Kreisräte, Berlin, June 26, 1967 [copy of letter forwarded by Jung to Minister of Justice Kurt Wünsche], 3 of document, 18 of archival file; BArch Berlin-Lichterfelde, DP1 VA 1445, Band 3, Vermerk über die Ergebnisse einer Untersuchung über den jetzigen Stand der Tätigkeit von Ehe- und Familienberatungsstellen, die auf örtlicher Ebene organisiert sind, Berlin, December 13, 1965, 3 of document, 108 of archival file.

<sup>180</sup> BArch Berlin-Lichterfelde, DP1 VA 1757, Band 5, MdJ, HA IV, Berlin, Bericht über den Stand der Bildung und Tätigkeit der Ehe- und Familienberatungsstellen in den Bezirken und Kreisen, entsprechend dem Stand vom 1. März 1969, March 15, 1969, 12 of document, 47 of archival file.

Given the relative dearth of personnel and the recognition that the university curriculum for doctors and jurists did not explicitly focus on relationship counseling, experts of various stripes could agree that life experience, and not merely the acquisition of professional expertise, constituted a vital qualification for being an effective counselor.<sup>181</sup> Lykke Aresin noted that the success of an ESB medical collective depended less on “the specialties that they represented than on the personality and the capabilities of the counselors.”<sup>182</sup> Krutzsch made this point as well, noting that having a “well-known and well-liked citizen” as an EFB counselor is a “big advantage.” In one instance, a female teacher visited the EFB in Sömmerda to ask if she was making the right choice in marrying her boyfriend. The EFB counselor just so happened to know the man in question and was aware that he had “developed in a positive direction in recent times”; the counselor thus gave the teacher the green light for nuptials.<sup>183</sup> Krutzsch felt that it was the ultimate testament to this counselor’s stature in Sömmerda that the teacher apparently had more confidence in his opinion of her potential husband than she did in

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<sup>181</sup> BArch Berlin-Lichterfelde, DP1 VA 1445, Band 2, Bericht über die Struktur und Arbeitsweise der bisher tätigen Eheberatungsstellen, August 19, 1965, 13 of document, 40 front side of archival file; SAPMO-BArch DY 31/1066, Diskussionsbeitrag für Rostocker Erfahrungsaustausch ESB des Ministeriums für Gesundheitswesen, Eva Hahn, January 18-19, 1978, p. 79 of file, p. 4 of document. As early as January 1965, however, a research group devoted to the topic of sexual pedagogy discerned the need to provide judges with training in sexual education in order to prepare them for their work in EFBs; see BArch Berlin-Lichterfelde, DP1 VA 1446, Walter Krutzsch, MdJ, Berlin, Vermerk über die Teilnahme an der konstituierenden Sitzung der Forschungsgemeinschaft Sexual-Pädagogik beim Ministerium für Volksbildung am 10. Januar 1965, Berlin, January 12, 1965, 2 of document, 73 of archival file. As research group member Bernd Bittighöfer put it, it was important to make sure that counselors were sufficiently qualified lest they cause more harm than good: BArch Berlin-Lichterfelde, DP1 VA 1446, Protokoll von der konstituierenden Sitzung der “Forschungsgemeinschaft Sexualpädagogik” beim Wissenschaftlichen Rat des Ministeriums für Volksbildung, January 10, 1966, 3 of document, 78 of archival file.

<sup>182</sup> BArch Berlin-Lichterfelde, DQ1 3458, Berichterstattung über die Durchführung von medizinisch-wissenschaftlichen Veranstaltungen in der DDR, Formblatt Nr. 6 (nur für den Dienstgebrauch), Rostock, June 1, 1966, 9 of document, unpaginated archival file.

<sup>183</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, MdJ, Berlin, Protokoll über die Fachtagung der Familienrichter (in Erfurt) am 22. November 1966 zu dem Thema: Erfahrungsaustausch über Ehe- und Familienberatungsstellen, 9-10 of document, 132-133 of archival file.

her own assessment. But on numerous other occasions, Krutzsch and his colleagues at the Ministry of Justice found themselves confronted with officials at the municipal and district level who did not share this enthusiasm for relationship counseling.

While scholars of National Socialism have dealt extensively with intra-governmental disputes regarding areas of competence and jurisdiction, historians of governance in the GDR have generally elided such contestation in their accounts.<sup>184</sup> As was the case with the implementation of the new age of marital consent for women during the mid-1950s, there was a considerable degree of dissent and blatant disregard for the FGB's provisions regarding the establishment of EFBs on the part of lower-level functionaries.<sup>185</sup> For this reason,

it is necessary to focus more closely on the role of the (lower-level or local) functionaries as active carriers of and participants within the system of rule, rather than as merely simple apathetic yes-men, or complicit opportunists, unquestioningly carrying out dictates from "above." There is a point of considerable import to be made in connection with this: namely that the predominant tendency in GDR historiography of defining the "state" as a tightly knit, unitary block of decision-making apparatus located in Berlin needs to be modified in favour of a more expansive definition of what and who constituted the "state."<sup>186</sup>

One of the biggest frustrations engendered by the process of creating a network of EFBs was the sluggishness with which many district councils followed exhortations from

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<sup>184</sup> Ute Schneider, *Hausväteridylle oder sozialistische Utopie?: Die Familie im Recht der DDR* (Cologne: Böhlau, 2004), 51.

<sup>185</sup> For more on the age of marital consent, see Chapter 4.

<sup>186</sup> Dan Wilton, "The 'Societalisation' of the State: Sport for the Masses and Popular Music in the GDR," in *Power and Society in the GDR, 1961-1979: The "Normalisation of Rule?"*, ed. Mary Fulbrook (New York: Berghahn, 2009), 102-129, here 104.

regional courts and Berlin-based authorities to establish them.<sup>187</sup> Time and time again, regional court officials who were responsible for reporting on the status of EFB development to the Ministry of Justice bemoaned the failure of local officials to take any initiative at all in finding appropriate space and staff for counseling centers. Many municipal authorities did not consider it worthwhile to devote much effort into something for which there seemed to be little or no popular demand.<sup>188</sup>

The fact that one Ministry of Justice official jotted down a marginal comment on a progress report about the establishment of EFBs in the region of Karl-Marx-Stadt that the report's contents gave him or her "cause for optimism" would seem to imply that other status updates on EFBs—of which there were many—provided grounds for a far more pessimistic prognosis regarding the long-term viability of EFBs.<sup>189</sup> Indeed, when Barwinsky of the Neubrandenburg Regional Court reported that there were often judges,

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<sup>187</sup> To cite but one example: BArch Berlin-Lichterfelde, DP1 VA 1747, Jennes, Direktor des BG Magdeburg, to MdJ, HA IV, Berlin, Betreff: Ehe- und Familienberatungsstellen, September 11, 1968, 1 of document, 72 of archival file.

<sup>188</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, Bericht über den Stand der Bildung und der Tätigkeit der Ehe- und Familienberatungsstellen in der DDR, MdJ, Berlin, March 7, 1967, 5 of document, 151 of archival file. This report, like many others, noted that EFBs *were* necessary, as evidenced by the fact that many people went to their local courts' legal information office (*Rechtsauskunft*) with their marital and familial problems—but in many cases, they did so instead of going to the EFB since the *Rechtsauskunft*'s hours were more convenient and because in many cases EFB visitors with legal problems would likely be referred to the court anyway. Some local authorities argued that there was "no pronounced need" (*kein ausgeprägtes Bedürfnis*) for EFBs even in places where the legal information office of the local KG was quite popular; at least one Ministry of Justice official noted that if there was a demand for counseling from court personnel, then there would have been a demand for a well-run EFB as well if local officials had put enough effort into establishing one; see BArch Berlin-Lichterfelde, DP1 VA 1757, Ehrenwall, Direktor des KG Cottbus, to MdJ, HA IV, Berlin, Betreff: Einschätzung über die Tätigkeit der Ehe- und Familienberatungsstellen im Bezirk, September 9, 1968, 2 of document, 65 of archival file. Along similar lines, the EFB in Calau managed to attract only one to two visitors a month, but the lay assessors' collective (*Schöffenkollektiv*) at the nearby power plant VEB Kraftwerke Lübbenau-Vetschau had "conversations" (*Aussprachen*) with about fifty married couples every year. The same Ministry of Justice official wondered why these lay assessors' *Aussprachen* could not be combined with EFB activities to make the latter more popular; see BArch Berlin-Lichterfelde, DP1 VA 1757, Ehrenwall, Direktor des KG Cottbus, to MdJ, HA IV, Berlin, Betreff: Einschätzung über die Tätigkeit der Ehe- und Familienberatungsstellen im Bezirk, September 9, 1968, 3 of document, 66 of archival file.

<sup>189</sup> BArch Berlin-Lichterfelde, DP1 VA 1757, letter from Kuckoreit, Direktor des BG Karl-Marx-Stadt, to MdJ, HA IV, Berlin, Betreff: Ehe- und Familienberatungsstellen, September 9, 1968, 3 of document, 71 of archival file.

teachers, and doctors willing to serve as counselors in districts lacking an EFB, a Ministry of Justice official sarcastically commented in the margin: “What are the three of them waiting for?”<sup>190</sup> They might very well have answered: “For some semblance of initiative and substantive institutional support on the part of the district or municipal council!” And while Barwinsky offered to his superiors the reassurance that there was a timeline in place for establishing EFBs in districts that lacked them, the Ministry of Justice official was not so easily convinced: “And what exactly is that timeline?”<sup>191</sup> S/he had reason to be skeptical, since it seemed as if very few district councils considered establishing or running an EFB as one of their regular responsibilities or incorporated EFBs into their working plans for governance.<sup>192</sup>

Some officials in Berlin alleged that insubordination at the municipal or district level resulted from the fact that the February 17, 1966 Implementation Directive (*Durchführungsbestimmung*) for the Family Law Code did not specify which department or agency within district councils was actually responsible for establishing EFBs.<sup>193</sup> It was not uncommon for the Ministry of Justice to have to rely upon district courts, which were generally more compliant than non-judicial officials at the local level, to strong-arm

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<sup>190</sup> BArch Berlin-Lichterfelde, DP1 VA 1757, letter from Barwinsky, BG Neubrandenburg, to MdJ, HA IV, Berlin, Betreff: Einschätzung zum Stand der Arbeit mit den Ehe- und Familienberatungsstellen im Bezirk Neubrandenburg, September 10, 1968, 2 of document, 76 of archival file.

<sup>191</sup> Ibid., 3 of document, 77 of archival file.

<sup>192</sup> BArch Berlin-Lichterfelde, DP1 VA 1757, MdJ, HA IV, Berlin, Bericht über den Stand der Bildung und Tätigkeit der Ehe- und Familienberatungsstellen in den Bezirken und Kreisen, January 16, 1969, 4 of document, 117 of archival file.

<sup>193</sup> BArch Berlin-Lichterfelde, DP1 VA 1756—Karl-Marx-Stadt subsection, letter from Schönfeld, Direktor des KG Hohenstein-Ernstthal, to Kuckoreit, Direktor des BG Karl-Marx-Stadt, April 30, 1966, unpaginated archival file; BArch Berlin-Lichterfelde, DP1 VA 1757, letter from Barwinsky, BG Neubrandenburg, to MdJ, HA IV, Berlin, Betreff: Einschätzung zum Stand der Arbeit mit den Ehe- und Familienberatungsstellen im Bezirk Neubrandenburg, September 10, 1968, 2 of document, 76 of archival file.

municipal and district councils into issuing decrees for establishing EFBs at all.<sup>194</sup>

Given the apparently widespread confusion about the distinction between ESBs and EFBs, many local officials might have assumed that local health or internal affairs officials would take care of the matter. Indeed, some municipal councils felt that establishing an EFB was superfluous if there was already an ESB in the area since they failed to recognize that the two institutions were under separate ministerial jurisdiction.<sup>195</sup>

This message did not sink in everywhere, since an official by the name of Oettmeier noted that an EFB in Geithain had shut down because the “competing” ESB (*Konkurrenz-Eheberatungsstelle*) was more popular—an interesting use of terminology

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<sup>194</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, Bericht über den Stand der Bildung und der Tätigkeit der Ehe- und Familienberatungsstellen in der DDR, MdJ, Berlin, March 7, 1967, 2 of document, 148 of archival file.

<sup>195</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, Bericht über den Stand der Bildung und der Tätigkeit der Ehe- und Familienberatungsstellen in der DDR, MdJ, Berlin, March 7, 1967, 3 of document, 149 of archival file; BArch Berlin-Lichterfelde, DP1 VA 1757, Stellvertreter von Neudert, Direktor des BG Schwerin, to MdJ, HA IV, Berlin, Betreff: Bericht über die Tätigkeit der Ehe- und Familienberatungsstellen im Bezirk Schwerin, September 10, 1968, 3 of document, 83 of archival file; BArch Berlin-Lichterfelde, DP1 VA 1757, letter from Barwinsky, BG Neubrandenburg, to MdJ, HA IV, Berlin, Betreff: Einschätzung zum Stand der Arbeit mit den Ehe- und Familienberatungsstellen im Bezirk Neubrandenburg, September 10, 1968, 2 of document, 76 of archival file; BArch Berlin-Lichterfelde, DP1 VA 1757, MdJ, HA IV, Berlin, evaluation of EFB reports from Bezirksgerichte, Stand Oktober 1968, 3 of document, 101 of archival file. Sometimes, the reverse was true: in Gräfenhainichen in 1968, for example, the very modest popularity (about one to three visitors per month) of an EFB with a doctor as part of its counseling collective led local officials to conclude that establishing an ESB would be unnecessary given the apparent lack of demand for more counseling opportunities. As in Sangershausen and other locales, the assumption was that “people would be too afraid to discuss sexual matters” in such a setting. See BArch Berlin-Lichterfelde, DP1 VA 1446, Band 4, *Deine Gesundheit* article (draft?) sent as an enclosure with a letter from Hildegard Hesse, *Deine Gesundheit* editorial staff, to MdJ, Berlin, February 1, 1968, 11-12, 14 of document, 22-23, 25 of archival file; BArch Berlin-Lichterfelde, DP1 VA 1757, letter from Knecht, BG Halle (Saale), to MdJ, HA IV, Berlin, Betreff: Stand der Bildung von Ehe- und Familienberatungsstellen, August 30, 1968, 1 of document, 56 of archival file. For the district courts in Pirna, Riesa, and Niesky (all in the region of Dresden), EFBs that had a doctor on their counseling staff were deemed to be functionally equivalent to ESBs; see BArch Berlin-Lichterfelde, DP1 VA 1757, Direktor, BG Dresden, Betreff: Ehe- und Familienberatungsstellen, Bericht über den derzeitigen Stand der Arbeitsweise, der gewonnenen Erfahrungen und Schwierigkeiten der Ehe- und Familienberatungsstellen im Bezirk Dresden und über Fragen der Zusammenarbeit mit Ehe- und Sexualberatungsstellen als medizinischer Zweig der Ehe- und Familienberatung, September 6, 1968, 3 of document, 62 of archival file.

since EFBs and ESBs were at least officially supposed to be collaborators, not rivals.<sup>196</sup> In Neustrelitz, the creation of an EFB had been delayed by the lack of availability of a suitable space for it, but a Ministry of Justice official made the trenchant observation that “the ESB [already] has rooms there.” If local officials had been able to house an ESB, then they should have been able to find room to accommodate an EFB as well.<sup>197</sup> The official wondered why authorities in Neustrelitz did not follow the example of their counterparts in Templin, where there were plans afoot to merge the quite popular ESB with the EFB that had not managed to attract a single visitor: “See! Why was this not possible in Neustrelitz!”<sup>198</sup>

It was thus not merely low-level governmental “niches” that could be immune to the pressures of “democratic centralism”; mid-level functionaries could also exhibit obstreperousness when it came to fulfilling directives from Berlin. As Peter Caldwell contends,

By the time of the GDR, democratic centralism amounted to little more than the claim that the actions of the party leadership were in agreement with the interests of the masses. But even this orthodox conception focused attention on the relationship between part and whole within the system and thereby implied some degree of give and take. Insofar as democratic centralism claimed that a

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<sup>196</sup> BArch Berlin-Lichterfelde, DP1 VA 1756—Leipzig subsection, Protokoll über den Erfahrungsaustausch der Eheberatungsstellen des Bezirkes Leipzig am 28. Juni 1967 (report signed by Zander, Richter am KG, and forwarded by Franke, stellvertretender Direktor des BG Leipzig to MdJ, HA IV, Berlin, on July 3, 1967), 4 of document, unpaginated archival file.

<sup>197</sup> BArch Berlin-Lichterfelde, DP1 VA 1757, letter from Barwinsky, BG Neubrandenburg, to MdJ, HA IV, Berlin, Betreff: Einschätzung zum Stand der Arbeit mit den Ehe- und Familienberatungsstellen im Bezirk Neubrandenburg, September 10, 1968, 3 of document, 77 of archival file. In Strausberg, located in the Frankfurt/Oder *Bezirk*, counselors compensated for the lack of available space by conducting counseling sessions in their own homes; see BArch Berlin-Lichterfelde, letter from Oberrichter Bodenstern, BG Frankfurt/Oder, to MdJ, HA IV, Berlin, Betreff: Einschätzung der Arbeit der Ehe- und Familienberatungsstellen im Bezirk Frankfurt (Oder), September 19, 1968, 3 of document, 90 of archival file.

<sup>198</sup> BArch Berlin-Lichterfelde, DP1 VA 1757, letter from Barwinsky, BG Neubrandenburg, to MdJ, HA IV, Berlin, Betreff: Einschätzung zum Stand der Arbeit mit den Ehe- und Familienberatungsstellen im Bezirk Neubrandenburg, September 10, 1968, 4 of document, 78 of archival file.

relationship existed at all, it provided language through which the interests of social groups, institutions, and individuals could surface.<sup>199</sup>

What Caldwell does not explicitly state is that the “social groups” and “institutions” that sought to make their interests known could also include state functionaries. By October 27, 1966, there were 73 EFBs reported by 118 district courts throughout the GDR, with Berlin and the regions of Karl-Marx-Stadt and Erfurt leading the way in terms of the number of EFBs established. But 94 district courts had not yet submitted reports regarding the existence of EFBs in their jurisdiction, and the region of Potsdam was a particularly egregious laggard in this respect: not a single district court in this region had complied with the injunction to file such a report.<sup>200</sup> By March 1967, the situation had not improved much, since there were still only three EFBs scattered throughout the eighteen districts and municipalities that comprised the region of Potsdam. Ultimately, the Potsdam Regional Court blamed the Potsdam Regional Council for its lack of leadership and failure to recognize that EFBs “could be very efficacious in stabilizing marital and familial relationships and in preventing marital conflicts.” Because of this leadership vacuum, district councils in the region of Potsdam neither received nor solicited any updates on the work of EFBs from at least 1972 until mid-1974.<sup>201</sup>

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<sup>199</sup> Peter C. Caldwell, *Dictatorship, State Planning, and Social Theory in the German Democratic Republic* (New York: Cambridge University Press, 2003), 9.

<sup>200</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, Vermerk, MdJ, Sekretariat des Ministers, Berlin, October 27, 1966, 107 of archival file. By late 1971, the Oranienburg and Potsdam-Stadt EFBs were doing relatively well, but seven EFBs in the *Bezirk* of Potsdam had ceased operation and the remaining EFBs in the region attracted hardly any visitors. See BArch Berlin-Lichterfelde, DP1 VA 3007, Band 1.3561, Bericht über die Arbeit der Ehe- und Familienberatungsstellen im Bezirk Potsdam, undated but after October 15, 1971, 1 of document, 1 of archival file.

<sup>201</sup> BArch Berlin-Lichterfelde, DP1 SE 2144, folder: Bildung und Besetzung der Ehe- und Familienberatungen, Band 1, Ausschnitt aus Monatsbericht von Knecht, BG Potsdam, über den Stand der Arbeit der Ehe- und Familienberatungsstellen im Bezirk Potsdam, September 18, 1974, 1 of archival file.

The level of recalcitrance got to the point that Fritz Scharfenstein, Minister for the Direction and Control of Regional and District Councils, felt compelled to reassure Minister of Justice Hilde Benjamin in April 1967 that he had berated local councils in the regions of Potsdam, Neubrandenburg, and Gera for having been delinquent in fulfilling their responsibility to establish a comprehensive network of EFBs.<sup>202</sup> A project that was designed to expand the possibilities for exerting “socialist” influence over the tenor of family life and sexual relationships was also revealing the limitations encountered by Berlin-based officials in shaping the behavior of their own governmental subordinates.

Despite the frequent calls for EFBs to do a better job of publicizing their activities and enticing young people in particular to visit, the Ministry of Justice squelched an attempt on the part of the youth periodical *für dich* to spread the word about EFBs in 1967. Even though the article in question had been drafted by the Ministry of Justice’s own Karl Romund, Romund’s colleagues Ullmann and Einhorn felt that publishing such a piece would be “premature and insufficiently informative (*wenig aussagekräftig*).” While Ullmann and Einhorn did not mention the rationale behind their hesitation to proceed with publication, one can surmise that Romund’s surprisingly unequivocal admission that numerous regions had been remiss in establishing EFBs did not accord well with the governmental imperative to characterize the building of the network of

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<sup>202</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, letter from Fritz Scharfenstein, Minister für die Anleitung und Kontrolle der Bezirks- und Kreisräte, to Hilde Benjamin, MdJ, Berlin, April 4, 1967, 187 of archival file; BArch Berlin-Lichterfelde, DP1 VA 1446, unnumbered volume (5 in sequence), letter from Minister der Justiz Kurt Wünsche to DFD Bundessekretärin Hertha Jung, July 31, 1967, 23 of archival file.

counseling centers as an unmitigated success story, at least in communication for public consumption.<sup>203</sup>

Yet Romund was not alone in his frankness. An article slated for publication in *Deine Gesundheit* mentioned that the towns of Wittenberg and Hettstedt each had both an EFB and an ESB, but that they were not successful in collaborating with one another or, for that matter, in attracting visitors.<sup>204</sup> Even in Aschersleben, which had the supposedly ideal-case scenario of an ESB and EFB that collaborated well together, visitors remained far and few in between; unlike many other such centers, which either sharply curtailed their hours or shut their doors entirely, the Aschersleben ESB and EFB optimistically (if perhaps futilely) vowed to redouble their efforts in giving public lectures and running notices in the local press. Residents of towns like Quedlinburg, which as of early 1968 had neither an ESB or an EFB, found that two local gynecologists and a dermatologist were offering sexual counseling on a more informal basis in their own offices instead.<sup>205</sup>

Even though the Ministry of Justice never realized the FGB's call for fully functional EFBs in every district, officials still hoped that the network of EFBs and ESBs could serve as a point of pride—and if one looks only at the official numbers in aggregate, it was. Despite the multifarious obstacles outlined above, the expansion of the

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<sup>203</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, Band 4, draft of letter from MdJ, Berlin to Schubert, Redaktion *für dich*, June 5, 1967, 2 of archival file; BArch Berlin-Lichterfelde, DP1 VA 1446, Band 4, "Stand der Bildung und Tätigkeit der Ehe- und Familienberatungsstellen in der DDR" (draft of Karl Romund's proposed article for *für dich*), 1 of document, 3 of archival file.

<sup>204</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, Band 4, *Deine Gesundheit* article (draft?) sent as an enclosure with a letter from Hildegard Hesse, *Deine Gesundheit* editorial staff, to MdJ, Berlin, February 1, 1968, 10 and 12 of document, 21 and 23 of archival file. An article that was similarly candid in its admission of the lackluster state of many marital counseling centers did appear in *Deine Gesundheit* in 1978: Lothar Obgartel, "Gut beraten," *Deine Gesundheit* 2 (February 1978), 58-60.

<sup>205</sup> As of early 1968, doctors began offering counseling in their own offices rather than in official EFBs or ESBs in the towns of Artern, Höhenmölsen, Nebra, Merseburg, Weißenfels, Naumburg, Eisleben, and most likely elsewhere as well. BArch Berlin-Lichterfelde, DP1 VA 1446, Band 4, *Deine Gesundheit* article (draft?) sent as an enclosure with a letter from Hildegard Hesse, *Deine Gesundheit* editorial staff, to MdJ, Berlin, February 1, 1968, 13 and 15 of document, 24 and 26 of archival file.

EFB network proceeded apace. By February 15, 1967, the number of EFBs had grown to 116, and in March 1967 Ministry of Justice official Krutzsch predicted that there would eventually be approximately 200 EFBs throughout the country. His prediction was accurate, since 205 EFBs were officially in existence in the 230 districts of the GDR by March 1969.<sup>206</sup>

The proliferation of counseling centers was one aspect of inter-German competition in which the East Germans appeared to be outperforming their West German rivals. Gerhard Misgeld pointed out in 1971 that even though the GDR's Working Group on Marriage and Family (*Arbeitsgemeinschaft Ehe und Familie*) had been established in

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<sup>206</sup> BArch Berlin-Lichterfelde, DP1 VA 1446, Bericht über den Stand der Bildung und der Tätigkeit der Ehe- und Familienberatungsstellen in der DDR, MdJ, Berlin, March 7, 1967, 1 of document, 147 of archival file; BArch Berlin-Lichterfelde, DP1 VA 1446, unnumbered volume (5 in sequence), letter from Hertha Jung, DFD Bundessekretärin, to Fritz Scharfenstein, Minister für die Anleitung und Kontrolle der Bezirks- und Kreisträte, Berlin, June 26, 1967 [copy of letter forwarded by Jung to Minister of Justice Kurt Wünsche], 1 of document, 16 of archival file; BArch Berlin-Lichterfelde, DP1 VA 1757, MdJ, HA IV, Berlin, Bericht über den Stand der Bildung und Tätigkeit der Ehe- und Familienberatungsstellen in den Bezirken und Kreisen, January 16, 1969, 1 of document, 114 of archival file; BArch Berlin-Lichterfelde, DP1 VA 1757, Band 5, MdJ, HA IV, Berlin, Bericht über den Stand der Bildung und Tätigkeit der Ehe- und Familienberatungsstellen in den Bezirken und Kreisen, entsprechend dem Stand vom 1. März 1969, March 15, 1969, 1 of document, 36 of archival file. While thirty-three districts still lacked an EFB in January 1969, the districts of Nauen, Zossen, Hoyerswerda, Teterow, Nordhausen, and Schwerin had gone above and beyond the call of duty by establishing two EFBs each; in 1969, the largest number of gaps in the EFB network could be found in the regions of Magdeburg, Schwerin, and Rostock. By way of comparison, there were about 130 ESBs run by the Ministry of Health as of November 1967. Forty-seven of those ESBs featured a jurist as part of their counseling collective, and in nineteen other instances, an ESB had merged with an EFB to form an EFSB. See BArch Berlin-Lichterfelde, DP1 VA 1446, unnumbered volume (5 in sequence), Karl Romund, Bericht über die 3. Rostocker Fortbildungstage der AG Ehe und Familie in der DDR, MdJ, Berlin, November 2, 1967, 1-2 of document, 25-26 of archival file. By January 1969, once the ESB was at least officially supposed to have become the medical branch of the more comprehensive EFB (as per the Ministry of Health's Directive Number 3/1968 for the Activity of Marital and Sexual Counseling Centers as the Medical Branch of Marital and Family Counseling [*Richtlinie Nummer 3/1968 für die Tätigkeit der Ehe- und Sexualberatungsstellen als medizinischen Zweig der Ehe- und Familienberatung*]), the number of ESBs had declined to seventy, nine of which existed in districts that lacked an EFB, with a slight bounce back to seventy-three ESBs (twelve of which were in districts that lacked an EFB) by March 1969. The number of hybrid EFSBs, meanwhile, had increased to fifty, which was still not enough to offset the decline in the number of ESBs. See BArch Berlin-Lichterfelde, DP1 VA 1757, MdJ, HA IV, Berlin, Bericht über den Stand der Bildung und Tätigkeit der Ehe- und Familienberatungsstellen in den Bezirken und Kreisen, January 16, 1969, 1 and 3 of document, 114 and 116 of archival file; BArch Berlin-Lichterfelde, DP1 VA 1757, Band 5, MdJ, HA IV, Berlin, Bericht über den Stand der Bildung und Tätigkeit der Ehe- und Familienberatungsstellen in den Bezirken und Kreisen, entsprechend dem Stand vom 1. März 1969, March 15, 1969, 1 of document, 36 of archival file.

1964 and its counterpart in the FRG had been in existence since 1952, the GDR group had overseen the establishment of a network of counseling centers that was roughly ten times the size of its West German counterpart (about 200 in the East versus 23 in the West).<sup>207</sup> While Misgeld sought to capitalize upon this comparative advantage in order to impress a domestic readership, efforts were underway to trumpet the accomplishments of the East German system of relationship counseling on a wider stage as well. The flagship counseling centers attracted visitors from other (mostly socialist) countries—the head of a Warsaw polyclinic visited the Berlin-Lichtenberg EFSB, jurists and doctors from Chile, Bulgaria, and Hungary consulted with the EFB in Berlin-Mitte, and Africans of unspecified nationality paid a visit to the EFB in Berlin-Prenzlauer Berg.<sup>208</sup>

In Chapter 3, I argue that Rudolf Klimmer's involvement with the publication *Der Kreis (The Circle)* indicates that the boundaries of transnational homophile activism during the 1950s did not necessarily end where the Iron Curtain began. In an analogous fashion, albeit in this case with the imprimatur of official state support, Karl-Heinz Mehlan sought to make the GDR a key player in a transnational dialogue about family planning and therapeutic approaches to sexual disorders that also transcended the Cold War divide. A particularly salient example of this phenomenon was the Fourth Continuing Education Conference for ESB counselors that took place in October 1968. While the first conference in 1965 had attracted 250 attendees, none of whom were from

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<sup>207</sup> Gerhard Misgeld, untitled editor's foreword, *Deine Gesundheit* 10 (October 1971), 290. Misgeld did not see fit to explain, however, why the West German working group had come into existence twelve years earlier than its East German analogue. Daphne Hahn posits the founding of the Working Group on Marriage and Family as having occurred in 1963 rather than 1964; see Hahn, *Modernisierung und Biopolitik*, 247.

<sup>208</sup> BArch Berlin-Lichterfelde, DP1 VA 1757, RichterIn Naumann, Stadtgericht von Groß-Berlin, 3. Zivilsenat, Betreff: Protokoll der Beratung mit Mitarbeitern der Ehe- und Familienberatungsstellen in der Hauptstadt der DDR am 14. August 1968, September 1, 1968, 3 of document, 42 of archival file.

outside of the GDR, the 1968 symposium featured 550 participants from not only East Germany but also West Germany, the Netherlands, Denmark, Poland, Hungary, Czechoslovakia, and the United States, with prominent Munich-based anthropologist and doctor Karl Saller, Amsterdam-based sexologist Coenraad van Emde Boas, and New York-based gynecologist Hans Lehfeldt among them.<sup>209</sup> On the cusp of the politics of détente between the FRG and GDR that became known as *Ostpolitik* in West Germany, Mehlan and his colleagues in family planning were inducing a kind of Cold War thaw of their own.

### **The (D)evolution of the Network of Relationship Counseling Centers During the 1970s and 1980s**

The number of visitors to many EFBs continued to be low during the 1970s, and numerous counseling centers existed “in name only.” The director of the Lüritz District Court went so far as to submit virtually the same—fallacious—report touting the success of the local EFB every year for much of the 1970s.<sup>210</sup> As was the case before the legalization of first-trimester abortion and free distribution of contraception in 1972, “the sexual counseling centers receive[d] the most visitors,” and Lykke Aresin and Karl-Heinz Mehlan remained among the most popular counselors, attracting hundreds of visitors

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<sup>209</sup> BArch Berlin-Lichterfelde, DQ1 3458, Berichterstattung über die Durchführung von medizinisch-wissenschaftlichen Veranstaltungen in der DDR, Formblatt Nr. 6 (nur für den Dienstgebrauch), Rostock, June 1, 1966, unnumbered page of document, unpaginated archival file; BArch Berlin-Lichterfelde, DP1 VA 1757, brochure for Probleme der Ehe- und Sexualberatung, 4. Rostocker Fortbildungstage (organized by Karl-Heinz Mehlan, director of the Institute for Social Hygiene at the University of Rostock), October 3-5, 1968, 3, 6, and 7 of document, unpaginated portion of archival file beginning with 107.

<sup>210</sup> Markovits, *Gerechtigkeit in Lüritz*, 119.

annually from throughout the GDR.<sup>211</sup> To satisfy this demand, Judge Paul Witte of the Greifswald District Court believed in 1972 that judges needed more practical training so that they too could be effective birth control counselors. In doing so, however, Judge Witte might not have been aware that sexual pedagogues had already made a similar recommendation (as noted above) in 1965:

I consider this topic to be an important one since in previous [continuing education] conferences [for EFB counselors in Leipzig] it was always emphasized that terminating a pregnancy should only be a last resort and that preference should be given to the prevention of [unwanted] pregnancy. But I do not recall that lectures on this topic imparted to judicial practitioners any concrete knowledge of possible methods of contraception based upon the most modern research. We could do a better job of conducting marital and sexual counseling, even though we do not want to compete with the experts. We need more concrete knowledge in order to become more convincing. I attended a lecture here in Greifswald in which the topic became clearer to me because of the use of slides and demonstration of different kinds of contraceptives. Something similar would be suitable for the judges who will convene [for the 1973 continuing education conference for EFB counselors] in Leipzig.<sup>212</sup>

What was different in 1972, however, was that this recognition of the need for sexual enlightenment of court personnel came from a judge, and not an expert in sexual pedagogy. Instead of waging an ongoing struggle for supremacy between legal and pedagogical forms of relationship counseling on the one hand and medical and

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<sup>211</sup> BArch Berlin-Lichterfelde, DP1 VA 3007, Band 1.3561, Stranovsky, Direktor des BG Neubrandenburg, to MdJ, Berlin, Betreff: Berichterstattung zur Arbeit der Ehe- und Familienberatungsstellen, June 14, 1977, unpaginated document, 192 of archival file; BArch Berlin-Lichterfelde, DP1 VA 3007, Band 1.3561, MdJ, Berlin, Entwurf: Information über die Entwicklung und die Arbeit der Ehe- und Familienberatungsstellen im Jahre 1977, October 31, 1977, 3 of document, 211 of archival file. An exception to the general downward trend could be found in East Berlin. Whereas 1500 East Berliners sought counseling per year between 1964 and 1969, the number of counseling appointments (if perhaps not of actual visitors, given the likelihood of follow-up sessions) rose to 3435 in 1970, 4676 in 1971, and 5238 in 1972. Harsch, "Sex, Divorce, and Women's Waged Work," 111 and en 88, drawing upon Landesarchiv Berlin, Rep. 118, Akte 499, Protokoll ..., October 25, 1973.

<sup>212</sup> BArch Berlin-Lichterfelde, DP1 SE 2144, Band 1, letter from Richter Paul Witte, KG Greifswald, to MdJ, HA III, Berlin, zu Händen des Sektorenleiters Karl-Heinz Eberhardt, Betreff: Weiterbildungsveranstaltung für die in Ehe- und Familienberatungsstellen tätigen Kollegen, December 1, 1972, 1<sup>st</sup> unnumbered page of document, 20 front side of archival file.

psychological approaches on the other, Judge Witte acknowledged that since much of the populace continued to equate “marital and sexual counseling” with contraceptive advice, then jurists would have to make a good-faith effort to become effective birth control counselors, albeit without stepping on the toes of the doctors whom he characterized as “the experts.”

Judge Witte’s comments also stemmed from more practical exigencies, however, since personnel issues remained a pesky problem. Even though EFBs and ESBs were supposed to have counselors with some degree of background or expertise in psychology or psychotherapy, Lykke Aresin noted that “it has been particularly difficult to find suitable psychologists” for a 1972 continuing education seminar for EFB counselors.<sup>213</sup> If psychologists were supposed to be an integral part of the marital and sexual counseling collective, then why was it so difficult for Aresin to find a suitable speaker? She asked psychologist Heinz Grassel, but despite his extensive involvement in previous training sessions, Grassel wound up renegeing on his commitment to participate, much to the consternation of the Ministry of Justice.<sup>214</sup> By noting that “[a] psychologist *should* be part of every counseling center, since psychological problems are at the forefront of the problems encountered during counseling,” officials might not simply have been issuing a prescriptive statement that they presumed would be followed. They might also have been

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<sup>213</sup> BArch Berlin-Lichterfelde, DP1 SE 2144, Band 1, letter from Lykke Aresin, Leiterin der Ehe- und Sexualberatung, Karl-Marx-Universität, Bereich Medizin, Universitäts-Frauenklinik Leipzig, to Sektorenleiter Karl-Heinz Eberhardt, MdJ, Berlin, April 11, 1972, unpaginated document, 5 of archival file.

<sup>214</sup> BArch Berlin-Lichterfelde, DP1 VA 3007, Band 1.3561, handwritten draft of letter from MdJ, Berlin to Lykke Aresin, Leiterin der Ehe- und Sexualberatung, Karl-Marx-Universität, Bereich Medizin, Universitäts-Frauenklinik Leipzig, ostensibly from September 1972, unpaginated document, 19 back side of archival file.

implying that the goal of having someone with psychological expertise in every counseling center was far from being attained in practice.<sup>215</sup>

During the waning years of the GDR, the precarious viability of individual counseling centers became even more pronounced in that the total number of ESBs, EFBs, and EFSBs dropped from 274 in 1977 to 230 in 1985, and fell even further to 189 by 1987.<sup>216</sup> In an attempt to curry favor with the ever-elusive constituency of youthful advice-seekers, Ms. Friedrich, a legal adviser for the SED at the VEB *Dienstleistungskombinat* (Repair Services Combine) in Dresden, attempted to launch a computer-mediated matchmaking service called “Boy Meets Girl through the Computer” (*Sie und Er per Computer*). While Friedrich might not have been a consummate wordsmith in devising this rather guileless name, she did not lack for ambition; she hoped

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<sup>215</sup> BArch Berlin-Lichterfelde, DP1 SE 2144, Band 1, Simon, Leiter der Abteilung Innere Angelegenheiten des Rates des Bezirkes Dresden, Protokoll über den am 17. November 1972 erfolgten Erfahrungsaustausch mit den Leitern der Ehe- und Familienberatungsstellen der Kreise, 1 back side of document, 13 back side of archival file, emphasis added in quotation. Of the twenty-two professorships in psychology that had existed in 1933 in the part of Germany that would become the GDR, only three remained after 1945; Busse, *Psychologie in der DDR*, 209. Despite the “psychologization of the socialist self” that began in the late 1950s, the number of students enrolled in East German psychological institutes did not increase appreciably between 1956 and 1964; Busse, *Psychologie in der DDR*, 210. Indeed, in the early 1960s, there were only about 250 psychologists active in the GDR, and thus the shortage of psychologically trained professionals for the counseling centers is not terribly surprising. Indeed, East Germany lagged behind comparable countries both within and beyond the Soviet Bloc in this regard; while there was one psychologist for every 57,000 East Germans, there was one for every 20,000 Czechoslovakians and one for every 16,000 West Germans; Busse, *Psychologie in der DDR*, 195, 210. By the 1960s, East German psychologists were trying to prove their worth by highlighting their contributions to economic productivity, but they might have been doing themselves a disservice in the process since their contributions would have paled against those of other disciplines whose usefulness was more readily apparent. Thus, psychology might have been considered more important than in the early to mid-1950s, but “ultimately not important enough” to warrant more resources, even when the establishment of a comprehensive network of relationship counseling centers would seemingly have required as much. Busse, *Psychologie in der DDR*, 218.

<sup>216</sup> Betts, *Within Walls*, 113, drawing upon Bernhard Klose, *Ehescheidung und Ehescheidungsrecht in der DDR—ein ostdeutscher Sonderweg?* (Baden-Baden: Nomos Verlag, 1996), 147; BArch Berlin-Lichterfelde, DP1 VA 3007, Band 1.3561, Entwurf: Information über die Entwicklung und die Arbeit der Ehe- und Familienberatungsstellen im Jahre 1977, October 31, 1977, 1 of document, 209 of archival file, for 1977 figure; BArch Berlin-Lichterfelde, DP1 SE 2144, Aufgaben und Arbeitsweise der Ehe- und Familienberatungsstellen, Band 3, untitled chart with EFB and ESB breakdowns in 1985 and 1987 for all regions in the GDR, unpaginated archival file. The author of the 1977 report claims that the number of marital counseling centers in the GDR had remained unchanged between 1969 and 1977, but given the frequent openings and closings of these institutions, this contention strikes me as an implausible one.

that her idea for a computer-mediated “relationship counseling center” (*Partnerberatungsstelle*) would be adopted throughout the GDR.<sup>217</sup> Perhaps young East Germans reluctant to visit relationship counseling centers for decades had really just been longing for a matchmaking service all along. Karin Langner, who led the ESB in Berlin-Prenzlauer Berg for ten years, was confident that she and her colleagues were “doing quite a good job of realizing the vision that the KPD had for the duties of marital and sexual counseling.”<sup>218</sup> But the belated reclamation of this legacy by the SED and the disputes that characterized its implementation suggest that some discursive and experiential traces of the Weimar-era palimpsest had long since faded beyond recognition.

## Conclusion

Some historians have been inclined to relegate East Germany to nothing more than a “footnote” in world history.<sup>219</sup> Even those historians of the family and sexuality who consider East Germany to be worthy of sustained historical attention have tended to consign sexual and marital counseling centers to the margin of their own accounts. This has occurred not because of a historiographical consensus that the counseling centers were a failure, but paradoxically because of their perceived “success” as a relatively benign and popular form of intervention on the part of an “educational dictatorship”

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<sup>217</sup> BArch Berlin-Lichterfelde, DP1 SE 2144, Aufgaben und Arbeitsweise der Ehe- und Familienberatungsstellen, Band 3, letter from Lindner, stellvertretender Direktor des BG Dresden, to Genosse Eichhorn, MdJ, HA III, Berlin, July 4, 1988, 3 of document, unpaginated archival file.

<sup>218</sup> “Das Interview,” with Karin Langner, conducted by Annegret Hofmann, *Deine Gesundheit* 10 (October 1984), 318.

<sup>219</sup> Bernd Faulenbach, “Nur eine ‘Fußnote der Weltgeschichte?’: Die DDR im Kontext der Geschichte des 20. Jahrhunderts,” in *Bilanz und Perspektiven der DDR-Forschung*, eds. Rainer Eppelmann, Bernd Faulenbach, and Ulrich Mählert (Paderborn: Schöningh, 2003), 1-23.

intent upon reshaping family life along “socialist” lines. Alternately, historians have criticized the SED’s promotion of relationship counseling as yet another obtrusive form of governmental encroachment upon the private sphere in the name of enhancing the country’s demographic viability and economic output. These perspectives fail to take into account the difficulties that many EFBs and ESBs faced in attracting visitors and the lackluster commitment on the part of many local officials to establishing and maintaining them. Such tribulations exposed fissures in the edifice of “democratic centralism” that limited the SED’s ability to shape its own institutions, much less East German families, according to inflexible preconceptions. EFBs in particular were more often than not confirming rather than refuting existing prejudices regarding their apparent superfluity, and the relatively greater popularity of the kind of counseling offered by ESB specialists could not help but make the jostling for supremacy between judicial and medical or psychological professionals that much more pronounced.<sup>220</sup> In its attempts to reshape the East German family along socialist lines, the SED unwittingly reproduced the Foucaultian paradox of bewailing the prevalence of talk about sexuality while providing new institutional incitements to sexual discourse.

The degree to which sexual matters became a central preoccupation for both EFBs *and* ESBs points to another facet of the emergence of “sex as a cultural language” in the GDR. Laura Engelstein has argued that “sex as a cultural language” was lacking in the Soviet Union—and, by implication, in other state-socialist polities—because “it was

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<sup>220</sup> BArch Berlin-Lichterfelde, DP1 VA 1757, letter from Oberrichter Bodenstein, BG Frankfurt/Oder, to MdJ, HA IV, Berlin, Betreff: Einschätzung der Arbeit der Ehe- und Familienberatungsstellen im Bezirk Frankfurt (Oder), September 19, 1968, 3-4 of document, 90-91 of archival file; BArch Berlin-Lichterfelde, DP1 VA 1757, MdJ, HA IV, Berlin, evaluation of EFB reports from regional courts as of October 1968, 3-4 of document, 101-102 of archival file.

precisely the ability to represent, elicit and satisfy desire in publicly available forms that the regime inhibited.”<sup>221</sup> Like the new terms for marriage and divorce codified by the Marriage Ordinance ten years earlier, the network of relationship counseling centers enabled “sex as a cultural language” to flourish even as many officials and counselors remained uneasy about the ostensible reification of sexuality that might result.<sup>222</sup> Contrary to the SED’s reputation as a haven for petit-bourgeois moralizing, the counseling centers were supposed to provide an institutional and discursive space for non-judgmental candor. Youth took advantage of the lectures offered by EFB and ESB counselors to ask not merely about the moral valence of premarital sexuality, but also about the role of desire and pleasure in intimate relationships. Even homosexuals could at least in theory, if not in practice, enjoy a brief respite from the opprobrium of societal discrimination by discussing their travails with a relationship counselor.

The hybridity of counseling centers, whether in terms of the acronyms applied to them or their reliance upon a combination of individualistic, collective, professional, and ideological therapeutic approaches, stemmed from the hope that in engendering emotionally satisfying sexual relationships for East Germans, these centers would also foster an emotionally satisfying relationship between ordinary citizens and the polity in which they resided. As part of a larger complex of policies pertaining to reproduction and the family, marital counseling centers “became increasingly important venues for

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<sup>221</sup> Laura Engelstein, “There Is Sex in Russia—and Always Was: Some Recent Contributions to Russian Erotica,” *Slavic Review* 51 (1992), 786-790, here 786.

<sup>222</sup> Indeed, Hertha Jung of the DFD opined, “We very much welcome the fact that sexual enlightenment is now spoken and written about more openly and freely. But this certainly does not address all of the challenges associated with preparation for marriage!” SAPMO-BArch DY 31/1068, microfiche 1, part 4, *FÜR DICH* 24/1971, interview conducted by Ingeburg Hirsch with Ilse Thiele, Vorsitzende des Bundesvorstandes des Demokratischen Frauenbundes Deutschlands and Hertha Jung, Bundessekretärin des DFD on the occasion of the Eighth [DFD] Executive Committee Meeting in May 1971.

state legitimation.”<sup>223</sup> The willingness of the populace to consider the counseling session as a *Sprechstunde des Vertrauens* thus served as a litmus test not only for popular confidence in the efficacy of premarital education and marital therapy, but also for trust in the state itself.

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<sup>223</sup> Timm, *Politics of Fertility*, 260.

## CHAPTER 7. CONCLUSION

In March of 1958, the District Court in the city of Stralsund exonerated Georg S. at the conclusion of a trial in which his landlord Friederike K. and her friend Ilse B. accused him of having spread slanderous rumors regarding the nature of the relationship between the two women. After Friederike K. and Ilse B. appealed the court's verdict, Georg S. hoped that drafting an *Eingabe* to Wilhelm Pieck, President of the GDR, would put an end to his legal troubles once and for all. Instead, Pieck ordered a re-trial, and in April of 1959, the same court ruled in favor of the female plaintiffs and sentenced Georg S. to a public rebuke (*öffentlicher Tadel*).<sup>1</sup> What had happened in the interim to change the mind of the court in Stralsund?<sup>2</sup>

Georg S. engaged in this allegedly calumnious behavior because he was convinced that Ilse B.'s husband, a local governmental official in charge of the Permanent Housing Commission, had conspired with Friederike K.'s family to prevent his complaints about his domicile and his desire for alternate living quarters from being addressed satisfactorily. Georg S. was convinced that if anyone deserved a public reprimand, it was Friederike K. and Ilse B. He was mortified by the “disgraceful same-

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<sup>1</sup> BArch Berlin-Lichterfelde, DP1 SE 1195, Teil 2, letter from Georg S., Stralsund, to Minister der Justiz Hilde Benjamin, Berlin, February 9, 1960, unpaginated archival file; BArch Berlin-Lichterfelde, DP1 SE 1195, Teil 2, Protokoll, Urteil, Kreisgericht (hereafter KG) Stralsund-Stadt, March 10, 1958, 1<sup>st</sup> unnumbered page of document; BArch Berlin-Lichterfelde, DP1 SE 1195, Teil 2, Protokoll, Urteil, KG Stralsund-Stadt, April 8, 1959, 1<sup>st</sup> unnumbered page of document.

<sup>2</sup> Lay judges (*Schöffen*) also took part in both trials, but the nature of the trial transcripts does not allow one to discern any potential differences of opinion among members of the court's judicial collective.

sex sexual activities (*das schändliche und gleichgeschlechtliche Treiben*) involving Friederike K. and Ilse B. because they pose a moral threat to my children.”<sup>3</sup> He contended that

he had seen with his own eyes how frequently the [female] plaintiffs kissed each other, called each other pet names, and shrieked loudly when they were having fun together. He also saw with his own eyes how both [female] plaintiffs nestled close together and kissed as they walked down the street. On the basis of this conspicuous behavior, he came to the conclusion that the relationship between the two women went far beyond the typical scope of friendship and that they had a more intimate relationship. The witnesses S. [Georg’s wife] and H. testified that they had also observed the [female] plaintiffs kissing on numerous occasions and that they had heard plaintiff B. call plaintiff K. “my darling, my love, my little dove” (“*meine Süße, meine Liebe, meine Taubi*”). The witness [Ms.] S. also testified that she had heard how the plaintiffs said to one another, “Stop tickling me! I can’t take it anymore!”<sup>4</sup>

Georg S. was confident that the government would reward him for having brought such reprehensible conduct to its attention. And when the Stralsund court initially absolved him of culpability in 1958, Judge Zimmermann bestowed accolades upon him for his willingness to speak his mind:

Our society has no interest in holding criminally accountable every citizen who makes critical remarks about the conduct of others. This would only be conducive to undermining the working people’s trust in our state organs. Every citizen of our republic has the right to criticize the behavior of others when he does not agree with it and when he cannot reconcile it with his moral views. Our citizens should always be encouraged to report to state authorities things that do not seem quite right rather than wait until “the child falls into the well,” as the saying goes.<sup>5</sup>

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<sup>3</sup> BArch Berlin-Lichterfelde, DP1 SE 1195, Teil 2, Protokoll, Urteil, KG Stralsund-Stadt, March 10, 1958, 2<sup>nd</sup> unnumbered page of document.

<sup>4</sup> Ibid., 3<sup>rd</sup> unnumbered page of document.

<sup>5</sup> Ibid., 4<sup>th</sup>- 5<sup>th</sup> unnumbered pages of document.

The court also found that Georg S. had not exaggerated the egregious nature of Friederike K.'s and Ilse B.'s public displays of affection:

Of course, it has long been customary for women who have been friends for a long time to kiss when greeting or parting from one another. Normally, no one would be offended by this. But when these pleasantries (*Sichgutsein*) extend beyond this (*aus dem Rahmen fällt*) and the exchange of intimacies occurs quite often, then one cannot blame a citizen who draws his own conclusions about this kind of behavior. Not every citizen is predisposed to approve of such behavior; instead, everyone has his own particular views about such things. The court also finds the behavior of the plaintiffs to be somewhat exaggerated (*etwas übertrieben*) and can thus completely understand why the defendant suspected that their relationship was more than just a friendly one. The [female] witness S., who is also a friend of the plaintiff K., burst into a fit of laughter when asked by the court whether she had also kissed the plaintiff K. She subsequently became indignant and testified that she would certainly not kiss a woman. This attitude on the witness S.'s part reveals that not all citizens behave like the plaintiffs do. They thus cannot be offended when a third party finds fault with their exaggerated intimacy.<sup>6</sup>

In the interest of fulfilling the pedagogical potential of socialist jurisprudence, even though the women themselves were not on trial, Judge Zimmermann opined that

[i]t thus falls to the plaintiffs to realize in the future that if they behave in this manner, someone else might take offense. Friendships (*freundschaftliche Beziehungen*) between women should remain morally unobjectionable. Even though same-sex sexual relationships between women are not subject to criminal penalty, they are in violation of the moral views of our working people.<sup>7</sup>

This constituted a remarkably candid admission that even though the “working people” disapproved of lesbian relationships, this was not in and of itself sufficient justification for criminalizing them. During the re-trial, however, Stralsund District Court Director Meyer turned this logic on its head. He noted that even though same-sex sexual activity

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<sup>6</sup> Ibid., 4<sup>th</sup>-5<sup>th</sup> unnumbered pages of document.

<sup>7</sup> Ibid., 6<sup>th</sup> unnumbered page of document.

involving women was not a criminal offense, Georg S. was guilty of having committed a “gross violation of the plaintiffs’ honor” because he subjected them to the prospect of moral vilification by credulous community members.<sup>8</sup> In other words, whether accusing Friederike K. and Ilse B. of a moral failing or a crime, Georg S. was infringing upon both legal codifications and community standards.

If the trial transcript is to be believed, Georg S. admitted that he lacked evidence to substantiate his allegations, confessed to the error of his ways, and expressed a desire to move on with his life.<sup>9</sup> But the grievances expressed in his February 9, 1960 *Eingabe* to Minister of Justice Hilde Benjamin would seem to indicate otherwise. Ministry of Justice official Müller echoed the chastising that Georg S. had received during the 1959 re-trial:

It was not justified for you to make such an allegation about the filer[s] of the civil suit in your letter to the President of the German Democratic Republic about your housing problem since the behavior of the civil suit filers has very little to do with your problem. It is therefore understandable that your contentions—to the extent that they are not proven—must necessarily be construed as slanderous by the civil suit filers. The confidentiality of the mail has not been violated since you should have been prepared for the fact that your letter to the President would be forwarded to other state organs for processing.<sup>10</sup>

The drastic change of heart on the part of the Stralsund District Court and the central organs of East German governance regarding the laudability of Georg S.’s disclosure might have been the result of his unfortunate decision to step on the wrong set of political toes. But it is also evocative of themes that have permeated the chapters of

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<sup>8</sup> Ibid., 4<sup>th</sup> unnumbered page of document.

<sup>9</sup> Ibid., 3<sup>rd</sup> unnumbered page of document.

<sup>10</sup> BArch Berlin-Lichterfelde, DP1 SE 1195, Teil 2, letter from Hauptreferentin Müller, Ministerium der Justiz (hereafter MdJ), Berlin, to Georg S. of Stralsund, March 23, 1960, front and back side of 1<sup>st</sup> page of document.

this dissertation. It would seem as if the people of Stralsund and governmental functionaries could agree that both Friederike K.'s and Ilse B.'s purported sexual profligacy and Georg S.'s prying into their personal affairs were morally unacceptable. But aside from the issue of Georg S.'s mendacity, what was *really* objectionable was the fact that either the two women or Georg S. would have the audacity to make publicly visible acts that should have remained behind closed doors if they transpired at all. In Müller's estimation, Georg S.'s ostensible prevarication was all the more blameworthy because he falsely assumed that Friederike K.'s and Ilse B.'s private affairs would have any bearing upon his housing grievances. The state did not really need or want to know about the nature of the relationship between these two women. Müller thus effectively conceded the existence of a private sexual realm that was beyond the reach of governmental intervention eight years before the SED would codify this principle into law by decriminalizing consensual same-sex sexual activity involving adult men. But this respect for privacy did not extend to the realm of epistolary communication. Even if Georg S.'s intentions had been noble, he should have realized that anything he wrote in a letter to President Pieck would likely become public knowledge—at least within the governmental orbit. Müller thus unwittingly confirmed the function of *Eingaben* as a semi-public domain for contending views on such volatile topics as the legal and moral status of female same-sex intimacy.

### **Sex and the Socialist Self**

As Chapters 2 and 3 reveal, Dresden-based psychiatrist Rudolf Klimmer made extensive use of *Eingaben* to oppose legal and societal discrimination against gay men in

East Germany and beyond. More fundamentally, he challenged a conception of the socialist self that would have relegated sexual autonomy to the denigrated realm of bourgeois individualist thinking. Katrin Sieg argues that “[t]he effacement of sexuality and subjectivism from socialist identity occurred under pressure from the cold war [*sic* lowercase].”<sup>11</sup> But Klimmer cultivated a network of like-minded sexologists and homophile activists that transcended the Cold War divide and that enabled him to circumvent limits placed upon the public articulation of his ideas in the GDR.

Other historians have emphasized that Klimmer’s efforts were largely in vain due to monolithic opposition in the GDR. Klimmer himself was frustrated by the obstacles that he encountered from a government that he had anticipated would be supportive of his ideas. Although he waged his campaign on his own, Klimmer encountered a much greater degree of support for his views regarding homosexuality than other scholars have acknowledged. And he persevered because the SED and influential professional experts begrudgingly came to accept that the spirit of progressive sex reform could be revived in the GDR as long as it remained invisible. This was not necessarily the result of any nostalgia for or even conscious awareness of the elective affinity that had existed between the Weimar-era KPD and progressive sex reform. Instead, it reflected lingering uncertainty about the efficacy of ideological and jurisprudential influence in enabling “healthy” (hetero)sexuality to prevail under state socialism.

Even as East German policymakers heralded the evaporation of the bourgeois divide between public and private, they effectively codified sexual privacy as a right

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<sup>11</sup> Katrin Sieg, “Deviance and Dissidence: Sexual Subjects of the Cold War,” in *Cruising the Performative: Interventions into the Representation of Ethnicity, Nationality, and Sexuality*, eds. Sue-Ellen Case, Susan Leigh Foster, and Philip Brett (Bloomington: Indiana University Press, 1995), 93-111, here 96.

worthy of governmental protection under state socialism when they moved to repeal § 175. This respect for privacy stemmed from an implicit acceptance of Klimmer's contention that the etiology of homosexual desire lay not in decadent bourgeois mores but in a congenital disposition that did not care whether it found itself living under capitalist or state-socialist auspices. By delegating the task of morally censuring homosexuality to "societal forces," East German policymakers effectively conceded that socialist jurisprudence was not necessarily a direct reflection or enforcer of popular moral standards, propagandistic proclamations to the contrary notwithstanding.

The SED remained hopeful, however, about the capacity of socialist jurisprudence to effect decisive change, if not in the case of biologically based same-sex sexual orientation then at least in the socially contingent constellation of gender relations. It was for this reason that the Marriage Ordinance of 1955 stipulated parity in the age of marital consent for men and women, as noted in Chapter 4. While West German legislators saw the presence of "women standing alone" in the wake of the Second World War as a "problem" in need of a solution, East German authorities did not bewail the existence of "women standing alone" as long as they would come to espouse a socialist work ethic and moral codex. But because authorities incorrectly assumed the congruence of societal and governmental attitudes regarding the destigmatization of unwed parenthood, they ultimately fostered resentment rather than gratitude on the part of precisely the young women whom the new statute had been intended to help. By unwittingly empowering these women to articulate their own ideas about motherhood and marriage, the new law also fostered discourse about the topic of premarital sexuality in ways that reinforced the centrality of sexuality to the socialist self.

While young women resented the imposition of a seemingly foreign moral standard when it came to the SED's policy on unwed parenthood, aging wives berated the party-state for not upholding moral values that the regime and the populace *did* hold in common. As in the debate about the decriminalization of homosexuality, however, it became evident that there was no consensus regarding socialist sexual morality or the efficacy of the GDR's laws in enforcing it. More specifically, the formal introduction of no-fault divorce in the 1955 Marriage Ordinance (the subject of Chapter 5) meant that adultery was no longer necessarily a rationale for granting a divorce. The new statute thus granted considerable discretion to individual judges in determining what exactly socialist morality had to say about marital infidelity. East German women did not appreciate being "liberated" from "marriage as a pension institution" when they had no viable means by which to secure a pension of their own. Aggrieved husbands asked whether it was more objectionable from a moral standpoint to uphold a failed marriage for financial considerations alone or to allow a spouse to embark upon a new, more promising marital union with a more politically (and sexually) compatible partner. Despite the Marriage Ordinance's emphasis on the importance of ascertaining the meaning of a marriage "for society," in everyday judicial practice, the meaning of a marriage "for society" was often indistinguishable from its meaning for the couples themselves.

The need to apply the new divorce law on a case-by-case basis with wildly unpredictable outcomes, along with widespread skepticism or even cynicism regarding the efficacy of societal intervention in averting marital discord, necessarily pointed to the untenability of the notion that socialist family law could or even should prioritize

collective over individual interests. This focus on the individual was perpetuated by the institutionalization of relationship counseling by the new Family Law Code of 1965, which I analyze in Chapter 6. But counseling centers proved to be no panacea for the ills of socialist marital life. They were not any better suited than the law in reconciling the fundamental paradox of the SED's rhetorical celebration of the collective and pragmatic prioritization of individual privacy. Counseling collectives were also hamstrung by ongoing intra-governmental disputes regarding the primacy of ideological or scientific methods in the promulgation and realization of socialist marital ideals. And even though officials in Berlin characterized citizens' willingness to confide their marital travails to counselors in state-run centers as a litmus test for their trust in the GDR's governmental apparatus as a whole, the commitment of local authorities to establishing and maintaining counseling centers was lackluster at best. The counseling centers that heeded the palimpsest of Weimar-era progressive sex reform in making the dispensing of contraceptive products and advice their central mission were most effective in cementing such trust. This was yet another manifestation of the centrality of the sexual to the constitution of the socialist self.

### **Expanding the Socialist Sexual Imaginary**

This dissertation has chronicled efforts on the part of East German officials and citizens alike to expand the socialist sexual imaginary. My use of the term "sexual imaginary" is inspired in part by Joshua Feinstein's concept of the "civic imaginary," which he defines as "the symbolic field on which both the East German state and its

inhabitants drew to define themselves and contest issues.”<sup>12</sup> In my formulation, the “sexual imaginary” was a subset of the “civic imaginary,” and it arose in response to popular discontent given the absence of an unfettered public forum in which to reconcile the antinomies between discursively mediated ideals and embodied experience. The imaginary was both a symptom and a cause of the indeterminacy of socialist sexual mores. And it was not reducible to a dichotomy between clearly delineated official and popular attitudes. Indeed, the open-endedness of the imaginary implies that there was a spectrum of conceivable subject positions on the part of officials and ordinary East Germans alike in a way that Mary Fulbrook’s notion of “normalization” or Jan Palmowski’s invocation of the “transcripts” of socialism do not. In a polity that severely curtailed the existence of non-state-run organizational life, the contestation of norms frequently took place, if not in the realm of the imagination, then in a civil society that necessarily occupied the space of the “imaginary.” This “imaginary”—comprised of *Eingaben*, socialist brigades, redacted letters to popular publications, internal governmental deliberations, criminal and civil trials, and relationship counseling sessions—provided the adhesive that prevented the “honeycomb” of the GDR from disintegrating into societal atomization for as long as East Germans felt that expanding the socialist sexual imaginary would still *matter*.<sup>13</sup>

But *why* would East Germans have reason to believe that expecting better of the socialist sexual imaginary would matter? Was the regime’s willingness to loosen the reins regarding sexual mores merely a tactic intended to distract East Germans from their

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<sup>12</sup> Joshua Feinstein, *The Triumph of the Ordinary: Depictions of Daily Life in the East German Cinema, 1949-1989* (Chapel Hill: University of North Carolina Press, 2002), 7, 9.

<sup>13</sup> For a discussion of the “honeycomb state,” see Mary Fulbrook, *The People’s State: East German Society from Hitler to Honecker* (New Haven: Yale University Press, 2005), 235-249.

political and economic discontent?<sup>14</sup> Or was it a concession to the consumerist desires of a populace that had already become conditioned to the commodification of sexuality through exposure to West German media?<sup>15</sup> As noted in Chapter 1, Josie McLellan warns against viewing East German sexuality according to a simplistic dichotomy between liberatory “romance” and overweening “repression.”<sup>16</sup> Edward Ross Dickinson criticizes the tendency in a broad swath of historical scholarship to view sexuality primarily as a site of displacement for “real” political and socioeconomic concerns.<sup>17</sup> Bearing these analytical caveats in mind, it is instructive to view East German sexuality as a particularly charged physical and conceptual domain in a polity that never satisfactorily resolved the paradox of seeking to dissolve the public-private divide while concomitantly upholding it.<sup>18</sup> This unresolved conceptual framework provided opportunities for the expression of popular grievances regarding the discrepancies between everyday experience and professed ideals.

This was not, however, a paradox entirely of the SED’s own making, and it predated the affiliation of the KPD with the Weimar-era sex reform movement. As Gert Hekma, Harry Oosterhuis, and James Steakley convincingly propound:

The public-private dichotomy, central to liberal political thought, has long been a problem for socialism. Both the utopian socialists and classical Marxists criticized the public-private dichotomy, but the latter never advanced beyond this

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<sup>14</sup> Franz X. Eder, *Kultur der Begierde: Eine Geschichte der Sexualität* (Munich: C. H. Beck, 2002), 236.

<sup>15</sup> Josie McLellan, “Visual Dangers and Delights: Nude Photography in East Germany,” *Past and Present* 205, no. 1 (November 2009), 143-174, here 148.

<sup>16</sup> Josie McLellan, *Love in the Time of Communism: Intimacy and Sexuality in the GDR* (New York: Cambridge University Press, 2011), 2-3, 214.

<sup>17</sup> Edward Ross Dickinson, “The Men’s Christian Morality Movement in Germany, 1880-1914: Some Reflections on Sex, Politics, and Sexual Politics,” *Journal of Modern History* 75, no. 1 (March 2003), 59-110, here 99, 106.

<sup>18</sup> Paul Betts, *Within Walls: Private Life in the German Democratic Republic* (New York: Oxford University Press, 2010), 3, 5.

to develop a political theory of gender and sexuality. [...] Although Marxism as a social theory recognizes that humans have no fixed nature and are a product of history, socialists (like liberals and others) have tended to view gender and sexuality as biological givens and thus essentially ahistorical.<sup>19</sup>

The purveyors of nineteenth-century socialist utopia such as Charles Fourier deviated from this consensus. In “granting such importance to sexual issues, the utopian socialists in a sense recognized that the personal is political, but their sexual radicalism was contemptuously dismissed by the scientific socialists, especially in Germany.”<sup>20</sup> These “scientific socialists” included Karl Marx and Friedrich Engels, who “were convinced that once society was liberated from the deformities of class oppression, a natural, heterosexual, monogamous love would finally flourish.”<sup>21</sup> As we have seen, many in the East German populace and officialdom were inclined to agree.

But this does not mean that the prospect of reviving the spirit of progressive left-wing sex reform was doomed from the outset after 1945. Lauren Kaminsky asserts that “[t]he official and unofficial attitudes toward sex, gender, and the family central to state socialism in central and eastern Europe had their roots in the tension between the utopian sexuality and conservative morality that shaped family life in the Stalin-era Soviet Union.”<sup>22</sup> In other words, “scientific” socialism in its Marxist-Leninist or Stalinist guise had not obliterated utopian socialism, but instead had adopted—however haphazardly or unwittingly—some of the latter’s key tenets. If Kaminsky is correct that Stalinism in the

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<sup>19</sup> Gert Hekma, Harry Oosterhuis, and James Steakley, “Leftist Sexual Politics and Homosexuality: A Historical Overview,” in *Gay Men and the Sexual History of the Political Left*, eds. Gert Hekma, Harry Oosterhuis, and James Steakley (Binghamton, NY: Haworth, 1995), 1-40, here 7.

<sup>20</sup> Hekma, Oosterhuis, and Steakley, “Leftist Sexual Politics,” 10.

<sup>21</sup> Hekma, Oosterhuis, and Steakley, “Leftist Sexual Politics,” 12; Dan Healey, *Homosexual Desire in Revolutionary Russia: The Regulation of Sexual and Gender Dissent* (Chicago: University of Chicago Press, 2001), 2.

<sup>22</sup> Lauren Kaminsky, “Utopian Visions of Family Life in the Stalin-Era Soviet Union,” *Central European History* 44, no. 1 (March 2011), 63-91, here 91.

USSR perpetuated at least some elements of socialist sexual utopianism, then it would seem as if alternative sexual imaginaries were also conceivable in a state-socialist polity like the GDR whose leadership class had been imbued with Stalinist thinking during wartime exile.<sup>23</sup>

It is important to bear in mind that there were numerous instances in which the GDR opted not to follow the example of the USSR, most notably when it came to provisions regarding homosexuality and abortion and the rehabilitation of social hygiene as an academic discipline. The perspective of sexuality demonstrates noteworthy ways in which the GDR was not a marionette deployed on the Cold War stage for the amusement of its Soviet puppeteers. This dissertation has endeavored to contextualize sexual discourses that were inflected by the specificities of East German society even as their constituent elements were informed by historical and contemporaneous transnational currents of influence. The open or clandestine propagation of these discourses might have been constrained by the Iron Curtain, but could also transcend geopolitical boundaries. Both the conservative iteration of sex reform as social Darwinist eugenics and the progressive branch that reified the personal as political had been discredited by events of the recent past. Was there room for a new kind of sex reform consensus to emerge?

Even as they disagree about the scope, loci, and ramifications of transformations in East German sexuality, Dagmar Herzog, Joshua Feinstein, and McLellan concur that

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<sup>23</sup> Catherine Epstein, *The Last Revolutionaries: German Communists and Their Century* (Cambridge: Harvard University Press, 2003).

the crucible of this change occurred during the early to mid-1970s.<sup>24</sup> Herzog places greater emphasis upon a relatively gradual evolution in the espousal of new sexual mores from above, whereas McLellan posits an uneven, but nonetheless momentous, sexual revolution in attitudes and behaviors that was catalyzed from below.<sup>25</sup> For McLellan, the impetus from below came primarily in the form of alterations in sexual practices rather than discourses because of the absence of a Western-style civil society.<sup>26</sup>

How, then, does one account for the emergence of a preoccupation with sexual self-determination, which is typically associated with postmaterialist, postwar western European New Left politics, in a state-socialist society devoid of New Left political parties or social movements?<sup>27</sup> McLellan observes that “[f]or all the frustrations of the shortage society, East Germans, particularly those born after 1960, showed certain postmaterialist traits.”<sup>28</sup> Their postmaterialist sensibility was the product of individual initiative and exposure to Western media. I would counter, however, that without discounting the salience of sexual philistinism it is possible to discern such “postmaterialist” preoccupations during the first two decades of the GDR’s existence as well. In identifying the seeds of sexual change that were sown in the GDR during the 1950s and 1960s, I am inspired by the example of Americanists who argue for the

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<sup>24</sup> Dagmar Herzog, *Sex after Fascism: Memory and Morality in Twentieth-Century Germany* (Princeton: Princeton University Press, 2005), 185, 187; Feinstein, *Triumph of the Ordinary*, 219; McLellan, *Love in the Time of Communism*, 12, 16.

<sup>25</sup> Dagmar Herzog, “East Germany’s Sexual Evolution,” in *Socialist Modern: East German Everyday Culture and Politics*, eds. Katherine Pence and Paul Betts (Ann Arbor: University of Michigan Press, 2008), 71-95; McLellan, *Love in the Time of Communism*, 9-11.

<sup>26</sup> McLellan, *Love in the Time of Communism*, 3-4.

<sup>27</sup> Andrei Markovits and Philip S. Gorski, *The German Left: Red, Green and Beyond* (New York: Oxford University Press, 1993); Johannes Huinink and Michael Wagner, “Partnerschaft, Ehe und Familie in der DDR,” in *Kollektiv und Eigensinn: Lebensverläufe in der DDR und danach*, eds. Johannes Huinink and Karl Ulrich Mayer (Berlin: Akademie-Verlag, 1995), 145-188, here 152; McLellan, *Love in the Time of Communism*, 15.

<sup>28</sup> McLellan, *Love in the Time of Communism*, 210.

reperiodization of the sexual revolution. K. A. Cuordileone, for instance, postulates that “social fissures, market trends, and ideological contradictions of the 1940s and 1950s” played a vital role in impelling the sexual upheaval of the ensuing decades.<sup>29</sup> Alan Petigny attributes causal significance to alterations in beliefs and practices regarding premarital and extramarital carnality during the two immediate postwar decades.<sup>30</sup> Elizabeth Heineman and Sibylle Steinbacher advance analogous arguments about the importance of the 1950s as a crucible of sexual change in the FRG.<sup>31</sup> If the East German sexual revolution was catalyzed primarily from below as McLellan contends, then it is important to heed the *longue durée* of East German sexual attitudes rather than focus primarily on the impact of policy reforms and the ascension to power of SED First Secretary Erich Honecker during the 1970s.

Curious East Germans poked holes in the physical and symbolic ramparts fending off the deluge of immoral capitalist influences that threatened to inundate the ostensibly morally pristine paradise of East German propagandists’ imagination. The articulation of a more progressive sexual vision in the GDR was not, however, merely an attempt to pluck at the forbidden fruit of a more permissive and prosperous West German society. Decoupling New Left-style concerns from an exclusive linkage to the milieu of western European capitalism amplifies existing research on socialist modernities by suggesting that “modern” conceptions of sexuality in the GDR both echoed and differed from their

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<sup>29</sup> K. A. Cuordileone, *Manhood and American Political Culture in the Cold War* (New York and London: Routledge, 2005), xxii.

<sup>30</sup> Alan Petigny, “Illegitimacy, Postwar Psychology, and the Reperiodization of the Sexual Revolution,” *Journal of Social History* 38, no. 1 (2004), 63-79, here 71.

<sup>31</sup> Elizabeth Heineman, *Before Porn Was Legal: The Erotica Empire of Beate Uhse* (Chicago: University of Chicago Press, 2011) and Sibylle Steinbacher, *Wie der Sex nach Deutschland kam: Der Kampf um Sittlichkeit und Anstand in der frühen Bundesrepublik* (Munich: Siedler, 2011), as noted by Donna Harsch, “Eroticism, Love, and Sexuality in the Two Postwar Germanys,” *German Studies Review* 35, no. 3 (October 2012), 627-636, here 631-632.

capitalist counterparts.<sup>32</sup> And East Germany's concomitant retraditionalizing impulse did not stem merely from uncritical emulation of West German cultural conservatives or from an indigenous wellspring of prudishness. Instead, the contestation of sexual mores emanated from the efforts of citizens and officials to expand the socialist sexual imaginary in ways that have been ignored or downplayed in historical scholarship to date. The proliferation of sexual discourse could and did occur in East Germany, and perhaps its most "revolutionary" aspect was its potential to nurture utopian aspirations amidst the frequently repressive atmosphere of "real-existing" socialism.

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<sup>32</sup> Katherine Pence and Paul Betts, "Introduction," in Pence and Betts, eds., *Socialist Modern*, 1-34.

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