TITLE: CONTESTING FEMALE PERSONHOOD: COMPARISON OF EAST AND WEST GERMAN LEGAL CULTURES IN THE PROCESS OF UNIFICATION

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Contesting Female Personhood: Comparison of East and West German Legal Cultures in the Process of Unification

Executive Summary

A comparative sociocultural analysis following one year of intensive ethnographic fieldwork finds that the different legal cultures of East Germany and West Germany are central to an understanding of the current social construction and social contestation of female personhood in the current, problematic process of German unification. What appears now is that forty years of different social and cultural developments created a rather different and distinctive "habitus" for individuals of the previous, separate Germanies. After unification, FRG legal culture became applicable throughout eastern Germany and thus established a new status for women there. Since changes in the former GDR occurred both more radically and more rapidly than in other countries of eastern Europe, its situation may serve as an inferential preview for transformations in other eastern European countries. The GDR's situation predicts that the structural collapse of the rational redistributive economy in the long term will create unforeseen rises in unemployment which, combined with the loss of a sociocultural "security blanket," may result in social unrest expressed as national chauvinism.

In the GDR the legal culture for women represented an image of women that was socially constructed in the social space where state, party, and union elites together developed ideological legal procedures designed to integrate women into the rational redistributive system. This image consisted of images of worker and mother combined with the principle of formal legal equality, the right to work, the right to equal pay for equal work, and the right to construct a female personhood compatible with the system. In West Germany, working women and their personhood are constructed and represented in a legal culture embedded in a capitalist economic system. Article 3 of the FRG Basic Law states that men and women are equal under the law. However, because of the principle of competition basic to the economic structure and organization, women are not guaranteed a right to work. Even though the Basic Law of the FRG provides the right to equal
pay for equal work, the gross income among female workers is one-third less than gross incomes earned among males. Gender-specific inequalities, according to FRG female legal scholars, are realities with regard to wages and unequal chances for women in the competition for jobs. By 1986 over 90% of FRG women with small children were part-time employees while only 3.2% of employed men were found in such relations of employment.

Following the democratic revolution of November 1989, the East German population voted for German unification, and on 3 October 1990, the German Unification Treaty officially brought the former GDR into the FRG's social structure and its accompanying institutional organizations and power. Just prior to the end of the old social system, over 90% of women were in the labor force, 99% of female and male pupils were in public schools, and 84% of females and males were in vocational apprenticeship. With the new social structure has come a radical educational, professional, vocational, and workplace collapse. Most eastern Germans with whom I spoke during my 1991-1992 fieldwork were unaware of, and virtually unprepared for, the new structure which they perceived as "foreign." With German unification, former East Germans were thrown overnight into a new world, one without a transitional grace period or any rituals of incorporation, as anthropologists call it. For many social actors, the absence of such transitional practices has meant feelings of sociocultural anomie, confusion, helplessness, anxiety, and--finally--anger. How this anxiety will come to express itself socially and politically in the future cannot presently be fully comprehended. The previous habitus did not prepare East Germans for the new, developing economic realities of insecurity, unemployment, and unpredictable times.

Unification with the FRG has also meant a replacement of the previously known legal culture for eastern German working women. While the general life orientations of women in the GDR followed a rather straightforward, predictable pattern (secondary schooling, employment/further education, coordination of the family with work, motherhood, and day-care arrangements for one or two children), this pattern disappeared overnight with unification. Since unification,
industrial managers generally have been skeptical about hiring women because they fear that women might not be aggressive enough. Now, women are required to exhibit initiative, responsibility, competitiveness, flexibility, creativity, risk-taking, and mobility; thus, a new "habitus" exists with which the majority of women is unfamiliar and for which virtually no one in society has been prepared. While all enjoy the new freedoms, especially the freedom to choose one's profession and place of work, most of the women are economically afraid of the new limitations for employment and education. Almost all of the women I interviewed felt desolate because they did not know how to orient themselves to and within the new system.

Immediately after unification the FRG's job termination law was implemented. Since women were the first ones to be laid off and since they did not yet understand how to make use of German litigation laws, they often missed the opportunity to proceed with litigation because of the requirement to bring forth claims within three weeks following the date of layoff. Women often have complained about employers who seem reluctant to hire women because of the costs of motherhood protective laws. This reluctance may be a reason for thousands of eastern German women between the ages of twenty and thirty years, fearful of unemployment conditions, presently entering hospitals daily and demanding sterilization, hoping to escape this practice of gender discrimination in the dismal job market in eastern Germany. The transition from one legal culture into another has also created particular concrete exceptions to the rules. For example, in June 1992 (the end of my field research) the FRG law prohibiting or limiting women from night labor or heavy construction labor was not yet in effect for east German nonpregnant women. Additionally, tariff and wage contracts were not transitionally included under the German Unification Treaty, and policy makers were not providing concepts nor the methods for applying legal, part-time work regulations to the eastern German economic environment. Such unequal treatment in employment and salary procedures has caused numerous walkouts, strikes, and demonstrations by members of all social groups throughout

Post-unification legal culture has established a new status for eastern German women. In essence, eastern German women are now entering a pattern of female personhood in which the woman orients herself toward the family, then motherhood and a part-time job. The legally guaranteed "free choice" for full-time work appears to be a gender-specific option. Women in western German legal culture and society are treated as if they do not need a job and salary (especially after marriage), and under the associated images of mother and housewife, they are socially marginalized as persons and repeatedly become financially dependent on the husband or the state.

Under the present, post-unification phase, eastern German women with experiences of gender-specific unequal treatment associated with both systems have begun to express themselves through contestations of inequalities on several legal contours of the social terrain: (1) in contestations and reformulations of Article 3 of the Basic Law (i.e., the article addressing equal rights for men and women), the new contenders acknowledge that the previous gender equal rights law was a necessary step in the development of human rights; however, according to these contenders, this law has further marginalized those people whom it legally should have helped enter into social participation. For these contenders, then, the historic moment of German unification remains an important terrain for furthering and expanding democracy by reforming the previous laws to demand that a work force be composed of an equal number of men and women. To advocates of such a reform, women from both social systems have received unequal chances through legal culture. Hence, new "unequal" laws are needed in this new era to work toward a goal of equalization that results in at least equal chances for women:

(2) A second point of contestation—and one which is related to the above principles of equalization—centers around the prohibition of discrimination. Even though the demand for this law was first introduced into party politics by the FRG Grüne Partei and was fiercely opposed by all FRG political parties, several West German states have passed the law and the city-state of Berlin adopted it after
unification in January 1991. The law provides that women with the same job qualifications as men will be given advantaged employment treatment until the women in particular occupational branches represent 50% of employees; and (3) since unification, a third major issue of contestation has arisen—again—over the abortion law, well known under its legal code, Paragraph 218. As I mentioned earlier, because the FRG and the GDR had different legal/cultural and political perceptions of pregnancy interruptions, each system constructed different laws on abortion. According to the German Unification Treaty of 1990, the GDR abortion law and its application for women was to remain legal until 31 December 1992, when a united German resolution was to be developed. In early summer 1992, eastern German women mobilized throughout the five states in order to form political pressure groups in response to the federal parliament’s decision to debate and pass a final resolution for a new abortion law in June 1992. The women representatives of various political parties and political civic groups express differing positions on this issue.

In the rest of this report I describe summarized versions of various positions on this issue which are based on my interviews and participation at public hearings in Berlin and in Bonn prior to the June 1992 parliamentary debates and passage of a resolution on changing the law, which is yet to be decided for ratification by the Bundesrat and Bundesgerichtshof. As reported earlier, the unification treaty’s extension or grace period granted for the former GDR abortion law will expire by this scheduled, or earlier-ratification date.

Considering the overall development of constructing political and legally sanctioned female personhoods in the united Germany, what seems to emerge is an image in which women as citizens are being legally defined as being only almost free to choose, and to self-determine their personhood. However, given the historical moment and inherently structural possibilities for contestations in the democratic, capitalistic state, women in eastern and western Germany have declared and demonstrated during my fieldwork that they will continue to challenge and contest the unequal status of females in the united Germany.
NOTES

1. Throughout this report I refer to the Federal Republic of Germany (FRG) as it was before the 3 October 1990 unification by using the capitalized country name "West Germany." The terms "West German" and "western German," respectively, refer to the FRG before unification, and to differentiated sociocultural qualities of the FRG in contrast to eastern sociocultural qualities of the unified Germany.

   For the German Democratic Republic as a separate country I use the fully capitalized name "East Germany," or its formal country name (or GDR) when referring to it up until its period of transition and transformation. Thereafter I distinguish the social actors and their system of the former GDR from those of the FRG by using the lower-case spelling "eastern German."

   In situations where the above usage might not be explicit I use additional terms, e.g., "former East Germans, or former GDR tenants" now residing in Hamburg, or—as is common in everyday usage--the "Ossies and Wessies," which are indigenous, mutually distinguishing terms for "eastern Germans" from the perspective of "western Germans," or vice-versa.
Contesting Female Personhood: Comparison of East and West German Legal Cultures in the Process of Unification

1. Working Women in the Former German Democratic Republic and Their Legal Culture Representation

1.1. Introduction

From its adoption in 1949, the East German Constitution (*Verfassung der Deutschen Demokratische Republik*) addressed the right of equality for women and men citizens of the former German Democratic Republic (GDR). In essence the social structure of GDR society resembled other eastern European countries, all of which were based on the social model of the former Soviet Union. How state bodies were organized and integrated, and what "noncontradictory forces" they produced or reproduced in eastern European countries, has been thoroughly analyzed by various state theorists working on eastern Europe. Their works have recently received excellent analytical interpretations by Verdery (1991, 72-97). For the purposes here, I will only briefly highlight those theoretical aspects that will be helpful in locating the legal culture within the overall socially constructed model of society in which that culture was embedded.

According to George Konrád and Ivan Szelényi (1979), the former socialist states of eastern Europe differ from capitalist states since they were structured upon a rational redistributive system. The essential character of such systems is that they all coordinate "the economic and political power. by contrast with free market economies, where for the first time in history, political and economic institutions are separated" (Konrad & Szelenyi, 49-50). In further contrast to
market economies, rational redistributive political economies have in common that the surplus product "and the legitimized right over its disposition is not determined by economic means alone, instead, its magnitude is the result of political decisions" (Konrad & Szelenyi, 49), which are made by state redistributors. The state elite's power of allocation is based upon successful attempts to maximize surplus products, a prerequisite for the redistributive process in society. However, since the political power of the state elites is based on their being able to allocate goods and services, a large labor pool is required for producing and securing sufficient surplus products. Hence, working women and men are always needed to satisfy surplus production goals and to reproduce the system. In such societies women and men are by necessity fully integrated into the labor process. This is accomplished through the "bureaucratized" sale of labor in which the redistributors (i.e., the technocrats and the ruling elite) have "an interest in keeping labor in a dispositive position" (Konrad & Szelenyi, 224-225).

The GDR can be analyzed from the above model. and indeed, GDR women and men were integrated into society in a manner similar to this structure. However, since women were also the producers of the next generation's producers, they received an ideologically different gendered legal culture regarding their location in the GDR rational redistributive system.

1.2. Integration and Representation of Working Women in the German Democratic Republic Legal Culture

Some months before the collapse of the Berlin Wall in November 1989 almost 91% of all women in the GDR were in the work force, and 87% had
completed profession-qualified education for various sectors of the rational redistributive economy (Nickel 1990, 3; Klenner 1991, 201). According to Article 24 of the former GDR’s Constitution, every citizen of the rational redistributive economy had the right to work and the right to a work place (SDFF, 23), and due to the logic of the redistributive economy, all labor laws were constructed to ensure and enforce full-time and long-term employment. Within the overall legal culture of the GDR, labor laws did not entail legal codes regarding layoffs, employment terminations, or firings—such labor events were virtually unknown in the GDR economy. It was also rather uncommon for a working person to voluntarily quit a job. Work conflicts were generally not related to unjust layoffs or disputes over firings; instead, conflicts centered on issues such as lack of worker responsibilities, lack of work ethic and discipline, and (occasionally) dissatisfaction over low salaries. Usually such disputes were resolved by work councils at the collective plants. Since labor relations were structurally based on continuous employment, it was more common for a person to be transferred from one work place to another. Firing practices, if applied, resulted in reeducating the worker if she or he offended the work discipline or violated one’s obligation or duty as a citizen of the state.

In order to assure a regular flow of labor, every young citizen legally was obliged to become a skilled worker. For example, a woman who graduated from the tenth grade of schooling received an apprenticeship at a collective factory. Even though the law provided the individual woman with a free choice in seeking
a workplace, the same law simultaneously stipulated that the free choice had to be in accordance with societal needs (Article 24, 1975, 23). Since the state elites were the leaders in education, the state-owned collectives faithfully secured a successful education for the apprentice in accordance with the state’s directed legal culture. When a woman completed her apprenticeship, the same collective was legally responsible for ensuring a continuous working relationship. However, should different job needs arise due to restructuring, the collectives were obliged to transfer the woman to other branches of industry.

From the beginning, the East German Constitution required equal wages for equal work. The state planners of the rational redistributive economy determined and fixed wages and salaries for all different types and groups of professions and jobs in the economy. With the help of the GDR trade union, the state’s established wages and salaries were ratified into contracts with the collective workers.

The collective industrial plants were legally obliged to guarantee blue-collar women workers opportunities for developing their skills and advancing into various types of specialized, skilled-production positions. Many women took advantage of these rights and in this way they furthered their professional qualifications. Women were entitled to use from one to five hours per work day for advancing their education through attending universities or other specialized professional or vocational schools. According to the GDR labor laws, women and mothers were encouraged to continue their education while at work. Both mothers with partners
and single mothers were especially encouraged, by law, to advance their education while working (SDFF, 217-299).

In order to pursue both work and education, mothers had assured rights to day-care services for their children, either in the state’s or the collective plant’s day-care center where the mothers were employed. Such services included weekly nurseries for infants, and weekly kindergartens for older children. Pupils up to the fourth grade were provided with day care in the schools’ day-care centers.

Working women in the former GDR were on the one hand fully integrated but simultaneously enjoyed protective advancement through various work rules. Women in the work place were prohibited from working in mining, in high atmospheric pressure, or toxic-gas related branches of production. The law did not prohibit women from working in physically difficult work environments or in shift work, however, but pregnant women and breast-feeding mothers were legally protected from physically difficult work, and it was the responsibility of the collective plant’s supervisor to ensure that these women were working in less physically demanding jobs (SDFF, 243-301).

Within the legal culture of the GDR all pregnant women or expectant mothers were guaranteed pregnancy leave or—if the need arose during this time—they were entitled to additional time off from work. Neither pregnant women, breast-feeding mothers, mothers with newborns up to one-year old, nor single mothers could be laid off. Furthermore, weekly leaves were available for pregnant women and new mothers seeking pregnancy or mother counseling services during
work schedules, and special rules allowed women time off from work for breast feeding. Additionally, these women were legally protected and had to be excluded from work schedules that included night shifts and overtime (SDFF, 1975, 68-70). After giving birth, a woman was entitled to a one-year leave (Babyjahr). All of the women in conditions specified above were legally guaranteed full salaries during these periods of leave. Working mothers were also entitled to paid leave for taking care of their sick children, and each woman had the right to take advantage of a special leave for house-work day (Hausarbeitstag). Additionally, single mothers and single fathers with children under the age of three years were protected by law from any kind of work termination actions.

In 1972 the former GDR state passed a law that assured a woman the right to an abortion if she was a citizen. With medical assistance a woman could decide to terminate a pregnancy if it was within the first trimester. Thereafter, special medical counseling was legally required and abortion was possible if carried out in a gynecological hospital (SDFF, 1975, 52-54).

In retrospect, the legal culture for women in the GDR represented an image of women that was socially constructed in the "social space" (Verdery 1990, 7) where state, party, and union elites together developed ideological legal procedures designed to integrate women into the rational redistributive system. This image consisted of images of worker and mother combined with the principle of formal legal equality, the right to work, the right to equal pay for equal work, and the right to construct a female personhood compatible with the system.
Following Verdery's model (1991, 8-12), the ideological images presented in the cultural politics of law for women were first "discursive," but these "discursive practices" were to a considerable degree also internalized by female social actors through "ideological processes,"--those "systematically structured processes and the experienced social relations through which human subjectives are constituted and through which humans act upon the world" (Verdery, 9).

However, it seems that the policies of the GDR were unsuccessful in eliminating gender inequalities. In fact, it appears that the ideological construction of the image of East German female personhood produced inequalities on three social fields of action. For example, even though East German women had legal advantages and educational possibilities as working women and mothers, in general they held low working positions in the East German political and economic hierarchy. Women most often were found in less attractive apprenticeship vocations and were most often directed into traditional, women-specific jobs, while men were encouraged to move into traditional, male-specific jobs. Even at the university level only 2% to 3% of higher ranking professional jobs were held by women. Since women were relegated into lower level positions, their average salaries were from 25% to 30% less than men's salaries. Also, according to my fieldwork, the ideal East German female personhood included feminine images of long blond hair, softness, faithfulness, and submissiveness. Neither school books nor education in general challenged these images. Further, since women were expected to combine their images of
full-time worker, mother, and housewife into one role, women in general opted for
less demanding careers, hoping in this way to balance their ambivalent situations.
This in turn also marginalized them from decision-making positions in power
centers of politics, production processes, and sciences.

2. Working Women in the Federal Republic of Germany and Their Legal Culture
   Representation

2.1. Introduction

In 1949 the FRG created its Basic Law, or das Grundgesetz, a code similar
to that of the GDR. However, in contrast to the GDR’s Constitution, the West
German Basic Law was not formally called a “constitution,” since the division of
Germany following the defeat of the National Socialist regime was considered to
be a transitional mode of division, not a final settlement. In 1949 the political
leaders of the new FRG postponed any official declaration of a constitution until
a time when Germany would again be united.³

The Basic Law of the FRG, a model of social structure dissimilar to the
GDR Constitution, can best be described abstractly as a democratic capitalist
social structure. This social structure is accompanied by a legal culture different
from that of the GDR. The major distinction is that in the FRG the state, or
political power, cannot organize production as it does in the GDR because
political power is separate from the economy (i.e., property, labor power, or
capital is private). Thus, instead, private decisions determine the concrete use of
the means of production.
The West German state also differentiates itself from the East German state in that political power is only indirectly related to taxation and private accumulation. As was stated earlier, the GDR state power was directly involved in taxation and nonprivate accumulation, and the state actors' interest was to reproduce necessary surplus production, since their legitimized power rested on their allocative practices. In contrast, the FRG state's political leaders are structurally interested in a stable economy to the extent that political power depends on the private process of accumulation in order to receive capital through taxation by the state.

Finally, the FRG distinguished itself from the GDR by being based on a parliamentary-democratic political principle of legitimization, in which any political group or party can win control over the institutional political power. In contrast, the GDR state, in limiting the electoral process to one major political group or party (i.e., to the Socialist Unity Party, or SED [Sozialistische Einheitspartei]) concretely restricted democratic control of the political power. While the system of the FRG is based on the separation of powers (among the executive, the legislative, and the judiciary), the GDR system, in essence, placed those powers under the single control of the political power.

2.2. Integration and Representation of Working Women in the Federal Republic of Germany Legal Culture

In West Germany, working women and their personhood are constructed and
represented in a legal culture embedded in a capitalist economic system. Article 3 of the FRG Basic Law states that men and women are equal under the law (Grundgesetz für die Bundesrepublik Deutschland 1990, 6). However, because of the principle of competition basic to the economic structure and organization, women are not guaranteed a right to work. The labor market in the FRG is predominately determined by private business and its economic interests in profit calculations.

Since the political society (i.e., the state) is constitutionally prevented from managing and planning the economy, women enter into employment relations with employers through a legally protected civil contract in which women and their employers mutually agree upon conditions of work. Because of structurally divergent financial interests in the FRG, and because of unequal power relations between employee and employer, independent labor unions represent and try to negotiate for labor interests, including less exploitative contracts of wages and working conditions. The legally protected, autonomous positions of labor unions within the FRG are firmly anchored in the Basic Law (1990, 8).

In general, employees are protected from firings after a six-month probationary period is successfully completed. This rule, however, does not apply to businesses with fewer than five employees. Since many women are employed in such businesses, they often are affected by termination practices that cannot be legally contested with regard to seeking unemployment compensation. Also, employment contracts in the FRG often are based on short-term work relations.
In one striking example, FRG universities have eliminated most all long-term employment possibilities except for tenured professors. Many women I talked to perceived this practice as discriminatory since most of the women employed in FRG academia, and who hold equally high academic qualifications, can be found in the ranks of time-limited assistants, below the tenured professor ranks. According to recent statistics on women in professions in the FRG, only 5.1% of tenured professor positions, and 2.3% of instructor positions at universities are held by women (Tatsachen über Deutschland: Die Bundesrepublik Deutschland 1989, 288). A similar gender-specific pattern regarding other high-ranked positions can be observed in other branches of employment throughout the FRG. Even though the Basic Law of the FRG provides the right to equal pay for equal work, the gross income among female workers is one-third less than gross incomes earned among males.

It appears to be the practice, in general, to group women into lower wage groups than those of men. Gender-specific inequalities, according to FRG female legal scholars, are realities with regard to wages and unequal chances for women in the competition for jobs. Most feminist legal scholars have expressed the need for women to enter more actively into the labor struggle in the unions and to pressure the labor courts to intervene on their behalf in cases of discrimination. Also, although the labor practice of part-time employment has been a factor contributing to the rise of employment rates since 1970 in the FRG, this practice especially affects women. By 1986 over 90% of FRG women with small children
were part-time employees while only 3.2% of employed men were found in such relations of employment. Most often this part-time work was found in low-wage branches such as the trade and service sectors. Additionally, these jobs, which are usually held by workers with minimal training qualifications, offer fewer opportunities for promotions and offer wages lower than those for employees performing the same tasks on a full-time basis. From the employer's perspective, part-time jobs are economically advantageous since, on the one hand, they reduce or eliminate the legal requirements of protected benefits, and on the other hand labor input can be intensified. Women generally view this as a legally unprotected employment relation.

The FRG legal culture lacks elaborate educational advancement opportunities. For example, female pupils who complete their required apprenticeship-vocational schooling track are individually responsible for seeking a position with an employer as an apprentice-in-training (Lehringsstelle). Upon successfully obtaining an apprentice/vocational training position, the pupil enters, so to speak, a dual system (i.e., at the workplace pupils receive practical training, while the required theoretical education is received one or two times per week in vocational schools (Berufschule). The female apprentice enters a legal educational contract (most often for three years) with the respective business, which in turn legally guarantees the woman the status of an employee. However, during these three years of training the apprentice receives only a meager salary. Further, FRG trainees have no legal constitutional right, following graduation, to
continuous employment with the employer. Instead, the graduated apprentice in
the FRG has to seek an agreement with the past employer or begin looking on her
own for a new work job.

As in the GDR, the FRG legal culture entails several protective measures
for women entering the labor force. For example, women are prohibited from
working in heavy industry (such as coal production) or in industry that requires
heavy lifting, packing, loading, and unloading. Generally observed, women are
legally excluded from work relations in which they would have to lift and carry
materials that weigh more than ten kilograms. Further protective measures
prohibit women from working between 8:00 p.m. and 6:00 a.m., except that in
industrial shift work women are allowed to work until 11:00 p.m. However, service
sector jobs such as in restaurants, bars, hotels, and hospitals are excluded from this
prohibition.

Another area of protection for women workers under the FRG legal culture
is motherhood. This law applies to all employed women and protects pregnant and
breast-feeding mothers from working on assembly lines and in occupational
activities requiring continuous and strenuous lifting, standing, or bending.
Furthermore, these women are prohibited from working overtime, at night or on
holidays, and employers are legally obliged to guarantee women paid leave for
breast-feeding their children twice daily for one hour. Six weeks prior to the date
of birth, working women are entitled to take leave, and after giving birth
employers are required to guarantee eight weeks of leave for motherhood
protection. Women with health insurance coverage are provided with "motherhood money," not to exceed 25 marks per day, for the six week prenatal and eight week postnatal leave periods. This amount is paid by the health insurance company, provided that the woman has been working and insured for at least twelve weeks during the tenth and fourth months prior to giving birth. However, if the woman was employed full-time during the tenth and fourth prenatal months, then the employer is required to pay the woman's net salary in addition to the motherhood money paid by the health insurance company. A variation of motherhood money exists for working women who terminate their employment and become housewives after the fifth month of pregnancy (i.e., four months before their child's birth). During these months the pregnant woman is entitled to receive 3.50 marks per day.

In 1985 a new child-raising and parent-leave law was passed which, in a way, intends to relate work and child-care needs. Either of the married parents, if unemployed or employed for less than nineteen hours per week, is entitled to this provision while she or he serves as the child's caretaker. Neither unmarried fathers nor any other close, fictive or nonfictive, kinship members who find themselves caring for the child are covered under this new law. In general, this law provides payments of 600 marks per month for up to eighteen months to a parent following the birth of the child. If the mother is an unemployed housewife at the time of the child's birth, the employed husband is not entitled to this child-raising leave provision of the law. In such cases, I was told by women that
traditional gender roles are being legally supported and reproduced in the FRG.

In cases of children becoming ill, both parents are entitled to take five days of paid sick leave per year for each child under eight years of age. Most often, however, it is the mother who takes this leave and who must provide the medical certification of illness and related declaration that no other person was able to care for the child. If the child is ill for more than five days of leave from work, the parent can continue nursing the child on an unpaid-leave basis. I was told that mothers often circumvent this legal limit by reporting themselves as sick to their employers. A woman is entitled to use up to six weeks of employer-paid sick leave per year. After this period expires, the health insurance has to continue a worker’s pay. However, women who are scheduled for fewer than ten hours of work per week are excluded from the above protection.

In the FRG many women terminate their employment following their period of child-raising leave, since neither industry, the state, nor the communities legally are required to provide for child day care. Although there is available room for 62% of all young children who could be in preschools, most of these centers are only open for half days, and all of these child care centers are operated as private or nonprofit organizations, commonly known in Germany as "Kindergarten." Officially, these centers of child care are considered as preschool (Vorschulen), and Article 7 (Schulwesen) of the Basic Law states that preschools are outside of the educational system (1990, 7). Approximately only 4% of all preschools are open all day, and 9% of these limit their enrollments to children who are between
three and six years of age.

Since Germany is a federally organized republic, individual states (Länder) can adopt variational patterns of legal codes. For example, the two western German city-states of Hamburg and Bremen, as well as the states of Niedersachsen and Nordrhein Westfalen, recently passed a law establishing a one-day-housework leave (Hausarbeitstag). For women who regularly work six days a week and who have a household, they are entitled to one day of leave for working in the house.

3. Conditions after Unification

Following the democratic revolution of November 1989, the East German population voted for German unification, and on 3 October 1990, the German Unification Treaty officially brought the former GDR into the FRG's social structure and its accompanying institutional organizations and power. Just prior to the end of the old social system, over 90% of women were in the labor force, 99% of female and male pupils were in public schools, and 84% of females and males were in vocational apprenticeship. With the entrance into the new social structure has come a radical educational, professional, vocational, and workplace collapse. Restructuring of these activities is slower and more costly than anticipated, old concepts of life orientation are now worthless and meaningless, and every job is open for disposition. Most eastern Germans with whom I spoke during my 1991-1992 fieldwork were unaware of, and virtually unprepared for, the new structure which they perceived as "foreign." What appears now is that forty
years of different social and cultural developments created a rather different and distinctive "habitus" for individuals of the previous, separate Germanies.

With German reunification, former East Germans were thrown overnight into a new world, one without a transitional grace period or any rituals of incorporation, as anthropologists call it. For many social actors, the absence of such transitional practices has meant feelings of sociocultural anomie, confusion, helplessness, anxiety, and—finally—anger. How this anxiety will come to express itself socially and politically in the future cannot presently be fully comprehended.

The previous habitus did not prepare East Germans for the new, developing economic realities of insecurity, unemployment, and unpredictable times. Therefore, an urgent need now exists for more—and continuous—in-depth anthropological research with a comparative perspective for comprehending how eastern European actors individually respond to, or cope with, the enormous sociocultural transformation now occurring on all levels of their respective societies.

Since changes in the GDR occurred both more radically and more rapidly than in other countries of eastern Europe, the GDR's situation may serve as an inferential preview for transformations in other eastern European countries. The GDR's situation predicts that the structural collapse of the rational redistributive economy in the long term will create unforeseen rises in unemployment which, combined with the loss of a sociocultural "security blanket," may result in social unrest expressed as national chauvinism.
Contractual unification with the FRG has also meant a replacement of the previously known legal culture for eastern German working women. While the general life orientations of women in the GDR followed a rather straightforward, predictable pattern (secondary schooling, employment/further education, coordination of the family with work, motherhood, and day-care arrangements for one or two children), this pattern disappeared overnight with unification. During my research in 1991, young women expressed a need for continuity, security, more self-development, having fewer children, working fewer hours, real work equality, and more leisure time. They could not conceive of a life without work and without a Beruf (profession). Women's life orientations in the previous social system (i.e., their internalized practices) often now work against them. In the old system women had to be adaptable as workers, mothers, and housewives. Since unification, industrial managers generally have been skeptical about hiring women because they fear that women might not be aggressive enough. Now, women are required to exhibit initiative, responsibility, competitiveness, flexibility, creativity, risk-taking, and mobility; thus, a new "habitus" exists with which the majority of women is unfamiliar and for which virtually no one in society has been prepared.

My informal interviews conducted in 1991 and in the spring of 1992 suggest that women between the ages of sixteen and forty were still unfamiliar with the new market exchange system. While all enjoy the new freedoms, especially the freedom to choose one's profession and place of work, most of the women are economically afraid of the new limitations for employment and education. Almost
all of the women I interviewed felt desolate because they did not know how to orient themselves to and within the new system. This helplessness seems to be more difficult for those who internalized to a higher degree the previous role of dependency on the state. While both men and women have been in a state of confusion, it seems that women experience helplessness more so than men in the social and economic problematic during this ill-defined time of uncertainty. Even though it is women who have the greater need for educational, social, psychological, professional, and financial support, such support is lacking. Most young women are in need of jobs, and secondary or high school graduates are unable to matriculate in universities or vocational schools. Additionally, a large number of women who previously held qualified professional and higher degrees have become dequalified.

Although in 1991 and 1992 western and eastern German policy makers rationalized, modernized, and in part rescued from financial chaos previous economic infrastructures, they had no concepts for effectively addressing rising unemployment and the labor market. On one side, employment counselors trying to assist large numbers of unemployed women have been unable to provide effective assistance because they have neither the appropriate concepts nor the necessary, supportive signals and leadership from the community, business, or state levels. On the other side, most of the women I interviewed did not yet understand how to approach the FRG's new forms to be used when applying for assistance, and many women had not yet received any financial compensation.
The transition from one legal culture into another has created some special problems for women. Immediately after unification the FRG's job termination law was implemented. Since women were the first ones to be laid off and since they did not yet understand how to make use of German litigation laws, they often missed the opportunity to proceed with litigation because of the requirement to bring forth claims within three weeks following the date of layoff. Women often have complained about employers who seem reluctant to hire women because of the costs of motherhood protective laws. This reluctance may be a reason for thousands of eastern German women between the ages of twenty and thirty years, fearful of unemployment conditions, presently entering hospitals daily and demanding sterilization, hoping to escape this practice of gender discrimination in the dismal job market in eastern Germany.

Since unification GDR women workers have come under the unemployment compensation rules of the FRG. In order to receive unemployment compensation in the FRG presently, a woman must report her unemployment status to unemployment office officials. To qualify for compensation, a woman is prohibited from working more than eighteen hours per week and must register to accept possible job openings available in the labor market. Additionally, an applicant must provide proof of having worked 360 full days (which for housewives and mothers can be disadvantageous), and mothers must present proof that their children are provided with adequate day care. Unemployment compensation is based on length of previous employment and number of children.
period of unemployment compensation, one is entitled to further social-welfare
unemployment assistance, paid from state tax funds. However, to qualify for these
assistance payments, an applicant must provide the name of a significant other
person who has economic resources; the unemployed applicant then is entitled to
approximately 58% of that person's income. I was told that this payment
arrangement tends to make women financially dependent on husbands, friends,
partners, or families. 11

The transition from one legal culture into another has also created
particular concrete exceptions to the rules. For example, in June 1992 (the end
of my field research) the FRG law prohibiting or limiting women from night labor
or heavy construction labor was not yet in effect for east German nonpregnant
women. Additionally, tariff and wage contracts were not transitionally included
under the German Unification Treaty, and policy makers were not providing
concepts nor the methods for applying legal, part-time work regulations to the
eastern German economic environment. For example, one woman who was
working after unification as a part-time shoe sales person explained that for fifteen
work hours a week she earned 220 marks, while a western German woman with the
same job earned 480 marks, despite the fact that consumer prices in eastern Berlin
were the same as in western Berlin. This economic discrepancy has been
accompanied by a vast postunification increase in apartment rent, transportation,
and other daily-living expenses for eastern Berlin women. Because of such
uncertainties and discrepancies, many eastern German women were in various stages of panic.

Also during unification another paradoxical legal situation arose in regard to the previous public employment sector. Under a new FRG concept called Abwicklung, if FRG policy makers decided that it was necessary to restructure or close an eastern German institution, the employees were, according to the German Unification Treaty, legally placed into a "waiting status." In this status the affected employees were paid 70% of their previous GDR salaries. If the employees were not rehired (and many were not), they lost their waiting status, their salary, and any legal basis for seeking unemployment compensation as a fired employee. In this process many university employees were abgewickelt, or severely hit. Many students and citizens in eastern Berlin referred to these practices as "colonialism" and "Anschluss." Although many university staff and private individuals who were affected by these harsh measures tried to contest and litigate their experiences of undifferentiated legal treatment, most cases presented by women lecturers or academic staff of the universities, which I followed closely during 1991-1992, were rejected. However, as I concluded my fieldwork I was told that several people were preparing to appeal their contestations in the future.

Such unequal treatment in employment and salary procedures has caused numerous walkouts, strikes, and demonstrations by members of all social groups throughout eastern Germany during 1991 and 1992.
4. Contesting Female Personhood

4.1. Introduction

After German unification FRG legal culture became applicable throughout eastern Germany and thus established a new status for women there. There are, however, profound and complex differences in how women were located and how images of their personhood were represented in the different legal cultures. In the GDR women were projected in image as working mothers who would, after the Baby Year, return to work as quickly as possible. A woman's income during this work leave was nearly enough to make ends meet. Since the GDR economy needed working women (as much as it needed working men), state planners constructed social policies and legal rules that would aim at coordinating occupations and motherhood. However, since the system did not challenge traditional gender roles, the working mother had to combine yet another role into those of worker and mother, namely the role of housewife.

On the other hand, the image of the FRG working woman who opts for having children was that she ought to terminate her employment after pregnancy leave in order to free the labor market for full-time employment possibilities by new workers, most often for men. In this way women ought to return to the house, taking full responsibility for the raising and caring of the child. While on the one hand, the motherhood money payment is hardly enough for daily existence, on the other hand, this allowance (i.e., no more than 25 marks per day) helps to
reproduce traditional gender roles. Furthermore, a new situation is produced through this legal culture whereby women often are called into gendered part-time employment.

In essence, then, eastern German women are now entering a pattern of female personhood in which the woman orients herself toward the family, then motherhood and a part-time job. The legally guaranteed "free choice" for full-time work appears to be a gender-specific option. Women in western German legal culture and society are treated as if they do not need a job and salary (especially after marriage), and under the associated images of mother and housewife, they are socially marginalized as persons and repeatedly become financially dependent on the husband or the state.

4.2. Three Areas of Legal Contestation

Under the present, post-unification phase, eastern German women with experiences of gender-specific unequal treatment associated with both systems have begun to express themselves through contestations of inequalities on several legal contours of the social terrain. Women politicians, leaders, and feminist scholars from eastern and western Germany are currently engaged in contestations and reformulations of Article 3 of the Basic Law (i.e., the article addressing equal rights for men and women). Also engaged are representatives from political parties and political movements, including the Social Democratic Party (SPD), the Party of the Democratic Socialists (PDS), and the party-movement coalition of
For all these groups, Article 3 represents a form of equality based in a gender-neutral philosophy, which, in everyday life for an individual woman, translates into nonemancipatory—and therefore socially oppressive and discriminatory—conditions. The new contenders acknowledge that the previous gender equal rights law was a necessary step in the development of human rights; however, according to these contenders, this law has further marginalized those people whom it legally should have helped enter into social participation. For these contenders, then, the historic moment of German unification remains an important terrain for furthering and expanding democracy by reforming the previous laws to demand that a work force be composed of an equal number of men and women. To advocates of such a reform, women from both social systems have received unequal chances through legal culture. Hence, new "unequal" laws are needed in this new era to work toward a goal of equalization that results in at least equal chances for women. In the contenders' view, a gender-neutral law does not account for historical and socially constructed differences between men and women; hence, equal chances can not develop under the present gender-equality law.
The contenders' perceived new utopia for women and men is based on equalization without assimilation, or as Kuratorium representatives state, "equal societal participation." This new utopia has been formally reformulated as a constitutional amendment to Article 3 via the alternative constitution proposed by the citizens' Kuratorium. For a comparative perspective on Article 3, two versions of the text follow:

The Present Basic Law of the FRG
(Subtitled—Equality Under the Law)

(1) All people are equal under the law.
(2) Men and women have equal rights.
(3) No one may be disadvantaged or advantaged because of their sex, descent, race, language, homeland and origin, beliefs, or religious or political perceptions.

(Kuratorium, 1991, 70)

The Citizens' Proposed Alternative Constitution
(Subtitled—Equality)

(1) All people are equal under the public power.
(2) Women and men are equal. The state is obligated to install and ensure the equal participation of the sexes in all societal realms (branches).
(3) No one may be disadvantaged or advantaged because of their race, descent, nationality, language, sex, sexual orientation, homeland and origin as well as their religious, worldview or political convictions.
(4) Measurements undertaken for the advancement of women as compensation [equalization] for existing disadvantages are not seen as preferences regarding gender.

(Kuratorium, 1991, 70; orig. emphases: my trans.)

A second point of contestation—and one which is related to the above principles of equalization—centers around the prohibition of discrimination.
(Landesantidiskriminierungsverbot). Even though the demand for this law was first introduced into party politics by the FRG Grüne Partei and was fiercely opposed by all FRG political parties, several West German states have passed the law and the city-state of Berlin adopted it after unification in January 1991. Presently, however, this law only applies to the public service sector. According to the female senator for labor and women in the state of Berlin, the law provides rules for how to accomplish equalization between working women and men in the public sector, and how to ease working conditions for people with house-care duties. In order to achieve this goal, all public offices in Berlin must elect women representatives who are legally empowered to supervise the female employment situation and to ensure that in two-year intervals all top-level political decision-making officers will receive information on the latest status and developments in the realm of hiring women. This proposed constitutional law for the first time includes and defines sexual abuse. In Berlin, in order to create conditions that would let women in the future have the same chances for promotion as men, the law states that women with the same job qualifications as men will be given advantaged employment treatment until the women in particular occupational branches represent 50% of employees. Both the oppositional women politicians of Bündnis 90, Grüne AL, UFV, SPD, and PDS and feminist scholars are contesting the discrimination law's one-sided legal applicability to the public sector; these groups are demanding that the law be applicable and enforced in private industry.
Since unification, a third major issue of contestation has arisen—again—over the abortion law, well known under its legal code, Paragraph 218. As I mentioned earlier, because the FRG and the GDR had different legal/cultural and political perceptions of pregnancy interruptions, each system constructed different laws on abortion. However, after unification a legal paradox developed which presently is being expressed in various voices of contestation and, in essence, points to a process which Verdery (1991, 12) has called "politics of culture" in which "verbal battles are being fought" over the cultural production of defining female personhood.

4.3. Constructions of Female Personhood: The Case of Abortion Law

According to the German Unification Treaty of 1990, the GDR abortion law and its application for women was to remain legal until 31 December 1992, when a united German resolution was to be developed. However, in case no new rules matured by that projected date, the old GDR law would continue as valid in the five new federal states of eastern Germany until such law was implemented. 

During my fieldwork in early summer 1992, eastern German women mobilized throughout the five states in order to form political pressure groups in response to the federal parliament's decision to debate and pass a final resolution for a new abortion law in June 1992. The women representatives of various political parties and political civic groups express differing positions on this issue. In order to present a holistic picture of political representations of female
personhood and describe the ideological processes and social construction of the abortion law. It is necessary to expand the issue and show the differentiated ideological embeddedness of the actors' present and future cultural orientations regarding women's personhood in the unified Germany.

In the rest of this section I describe summarized versions of various positions on this issue which are based on my interviews and participation at public hearings in Berlin and in Bonn prior to the June 1992 parliamentary debates and passage of a resolution on changing the law, which is yet to be decided for ratification by the Bundesrat and Bundesgerichtshof.

4.3.1. Legal and Cultural Orientation of The Bündnis 90/Grünen AL/Unabhängiger Frauenverband (UFV)

The general political position expressed and represented in these groups' joint outline for an abortion law is that it should secure freedom of choice for women with regard to an unwanted pregnancy. Additionally, the law should include guarantees for youth and adults to counseling regarding sexuality and methods and means of pregnancy prevention. All such counseling should be open and free to choice. Furthermore, the federal state is obliged to grant sufficient medical centers for ambulatory or, when necessary, hospitalized abortion patients.

This political group's interest is to replace the previous abortion law of the FRG by locating the right to choose in the individual woman's decision. In general, this group believes that a woman's decision to choose abortion deserves the same respect as her decision to carry out her pregnancy, and that society must
grant women the right to choose, take charge of, and create their own lives. Female personhood for this group means a woman who is self-reliant combined with a personality of responsible actions, and able to decide for herself whether or not she wants to end an unwanted pregnancy.

4.3.2. Legal and Cultural Orientation of the Social Democratic Party (SPD)

The representatives in this major party (officially called Sozialdemokratische Partei Deutschlands) favor a new law that will protect the beginning of a new life through the support of a child-oriented and friendlier society. Hence, they plead for legally secured assistance for families and pregnant women as well as education about sexuality and regulations on abortions. As does Bündnis 90, the SPD demands a law that entitles youth and adults to counseling services regarding sexuality. Additionally, each pregnant woman should have the right to information and counseling services that promote protection of the unborn life, and assistance to the woman during pregnancy with regard to psychological, economic, and social situations of conflict. The medical doctor consulted for abortion must counsel the woman on the medical procedures involved in an abortion.

The SPD’s legal outline places high priority on requiring medical counseling; additionally it stipulates that life-threatening complications that arise from abortions undertaken after the twelfth week of pregnancy will be considered an illegal abortion. The medical doctor who evaluates such life-threatening
conditions would be free from judicial scrutiny if the medical indication was erroneous. Generally, however, the SPD position favors a law that calls for impunity up to the twelfth week of pregnancy, and either a penalty or a fine thereafter, depending on the medical record of indication. The SPD also calls for efficient medical facilities for necessary abortions.

The SPD's outline for a new law on abortion has as its purpose the security of the unborn life and the recognition of a woman's responsibility accompanied with the right to self-determination. Female personhood, from the perspective of the SPD, thus envisions a responsibly acting woman who *almost* is able to decide whether she should interrupt her pregnancy, since the goals of securing life and of providing a woman with the right to self-determination are placed equally next to each other by the SPD's proposal.

4.3.3. Legal and Cultural Orientation of the Free Democratic Party (FDP)

The position of the FDP regarding a change to Paragraph 218 is that a new law would provide improved security measures for the unborn life, would promote a more child-friendly society, and would require counseling on pregnancy conflicts and regulations on the termination of a pregnancy. This latter portion would entail a modified regulation of the time period or threshold allowing for a termination of pregnancy. Every woman and man ought to have the legal right to counseling about sexual clarifications, birth control methods, and family planning.
Since this position centers on compulsory advisement, additional differentiated rules are presented for this approach. For example, counseling should instruct a woman about the possible psychological and physical effects of an abortion and it should help her come to a responsible and conscientious decision. In undergoing this counseling, a woman ought to have a legally guaranteed right to qualified counselors, and the right to anonymity if she wishes. Furthermore, in this proposed law, counseling service findings may not be recorded since no further indications are required; a woman need only prove that she has received the compulsory counseling. New in this proposal is that in cases where a woman comes to pregnancy conflicts, she would be able to legally opt for giving her child up for adoption.

The FDP’s formulation stipulates that a woman needs to prove to the doctor who performs the abortion that she received required counseling, and that between the counseling and planned abortion she had three days time for reflection. As does the SPD, the FDP pleads for freedom from punity if the abortion follows the above route and is not undertaken after the twelfth week of pregnancy; up to the twenty-second week of pregnancy, the FDP demands a eugenetic indication if the child is endangered, and a medical indication if the mother is endangered.

Under the FDP plan, all abortions ought to be performed in hospitals, and ambulant medical centers should not promote abortion tourism. In order to reduce future abortions, the FDP calls for political and social programs that assist with establishing legal rights for Kindergarten, tax credits for child day-care
expenses, more full-day schools, assistance with household/home work, continuing one's educational development following pregnancy and motherhood leave from work, providing support in locating housing and employment, conditions for more flexible work hours, and health insurance coverage of payment for birth control devices. In related assistance, paid employment leave for parents who nurse their sick children should be extended to ten days per child, and it should include a parent's leave rights for children up to the age of twelve years (up from five days per year for each child under the age of eight years).

In essence, the FDP incorporates the issues of abortion into a familial embeddedness, and the female as a person is not perceived as being independently responsible for freely deciding for or against abortion.

4.3.4. Legal and Cultural Orientation of the Christian Democratic Union (CDU)

The woman representative of the Christlich-Demokratische Union Deutschlands expressed the need for proposing a new law which, she explained, would provide a "third road" (dritterweg) for improving the security of the unborn life in the united Germany. The CDU as a majority party adopts the position that "whoever kills unborn life" will be prosecuted to the extent of the Lebensschutzgesetzes, or protection-of-life law. Additionally, the CDU demands compulsory counseling which should serve for the safety of the unborn life and the pregnant woman. State-licensed counseling centers are required to document that the pregnant woman has undergone a counseling session three days before the date
of the abortion. Furthermore, this proposal demands that a woman provide evidence of a calamity that makes it conscientiously unbearable for her to carry out the pregnancy. Should such an unbearable situation exist, then an abortion would be legal during the first trimester after a woman undergoes recounseling with a medical doctor and redocuments the counseling as a case of calamity. Furthermore, abortions up to the eighteenth week of pregnancy are legal if a eugenetic indication exists, and up to twelve weeks if a medical indication proves that the health of the woman is severely endangered. Abortions are only permissible in hospitals, and the federal minister of health ought to be empowered to establish new rules for regulating medical abortion centers.

In the CDU's proposal, a woman can only reach a decision after having been legally forced to undergo bureaucratic compulsory counseling. The image of a female person that emerges from an analysis of the CDU's political outline is based on the assumption that women are dependent on others regarding their self-determination. A pregnant woman in particular is envisioned as a psychological anomaly characterized by unpreparedness and loss of perspective, and hence is unable to decide for herself.

4.3.5. Legal and Cultural Orientation of the Christian Socialist Union (CSU)

The government of the FRG presently exists from the coalition of the Christlich-Sozialistische Union in Bayern (CSU) party, and the larger CDU. The CSU concurs with the basic assumptions of the CDU's outline for a new
abortion law. Beyond calling for a continuation of enforcement of the law as it was originally legislated, the CSU aims to change the language regarding "pregnancy interruption" *(Schwangerschaftsabbruch)* so that it will refer to killing of unborn human life *(Tötung ungeborenes menschlichen Lebens)*. Hence, compulsory counseling has to orient the woman toward continuation of the pregnancy and not toward abortion. The counseling team is to be known as a public professional committee consisting of a medical doctor, social worker, and psychologist. Additionally, a woman seeking abortion is required to undergo medical examination for indication of whether or not an eugenic, a medical, or a potentially criminal case is present. Abortions under the CSU proposal would be allowed to be performed only in hospitals under anaesthesia. Moreover, medical doctors would be mandated to document the abortion so that medical statistics would be available for improving the understanding of abortion.

Under the above proposal the female as person does not exist, and indeed the only concern of the CSU here is legal protection of the unborn life.

4.3.6. Legal and Cultural Orientation of the Kuratorium

As an independent citizens' initiative, and a political pressure group, the *Kuratorium für einen demokratisch verfassten Bund deutscher Länder* *(Kuratorium for a democratically constituted federation of German States)* developed their own outline of law for an alternative constitution. During my fieldwork, the citizens' initiative presented four alternative variations open for
public debate at public hearings. The first variation demands the right of a woman to decide for or against abortion. The second maintains that whoever terminates a pregnancy cannot legally be prosecuted unless the abortion was conducted against the woman's will. The third alternative resembles the first, and the fourth alternative reiterates the meaning of the second, but with linguistic changes. The nuances among these positions regarding abortion quintessentially reflect an underlying conviction that women as responsible and free citizens have the democratic right to make decisions about their pregnancies.

4.4. Female Personhood and the Social Construction of Law

During the first two weeks of June 1992, eastern German women organized several demonstrations prior to the parliamentary debate scheduled for later that month on the abortion issue. Two days before the debate and voting in Bonn on proposals for changing the law, elected women members of parliament from eastern Germany shared their prediction with me that the aforementioned combined positions of the SPD and FDP would be passed in legislation over the proposed positions of the CDU/CSU coalition. A parliamentary majority and winning vote was reached on the combined SPD and FDP resolution for changing the old law, but without the FDP's call for mandated increases and improvements of publicly funded day-care centers. This legislation, because of its legal breadth, now awaits the required review and a decision on ratification by the Bundesrat and Bundesgerichtshof by 31 December 1992. As reported earlier, the
unification treaty's extension or grace period granted for the former GDR abortion law will expire by this scheduled, or earlier-ratification date.

Considering the overall development of constructing political and legally sanctioned female personhoods in the united Germany, what seems to emerge is an image in which women as citizens are being legally defined as being only almost free to choose, and to self-determine their personhood. However, given the historical moment and inherently structural possibilities for contestations in the democratic, capitalistic state, women in eastern and western Germany have declared and demonstrated during my fieldwork that they will continue to challenge and contest the unequal status of females in the united Germany.
NOTES

1. Throughout this report I refer to the Federal Republic of Germany (FRG) as it was before the 3 October 1990 unification by using the capitalized country name "West Germany." The terms "West German" and "western German," respectively, refer to the FRG before unification, and to differentiated sociocultural qualities of the FRG in contrast to eastern sociocultural qualities of the unified Germany.

For the German Democratic Republic as a separate country I use the fully capitalized name "East Germany," or its formal country name (or GDR) when referring to it up until its period of transition and transformation. Thereafter I distinguish the social actors and their system of the former GDR from those of the FRG by using the lower-case spelling "eastern German."

In situations where the above usage might not be explicit I use additional terms, e.g., "former East Germans, or former GDR tenants" now residing in Hamburg, or—as is common in everyday usage—the "Ossies and Wessies," which are indigenous, mutually distinguishing terms for "eastern Germans" from the perspective of "western Germans," or vice-versa.


3. The Kuratorium for a democratically constituted federation of German states, a citizens' movement, presently demands that with unification the time has finally come for the population of a united Germany to create a democratic constitution which—for the first time in German history—would be based on input from all citizens of the united Germany. Toward this goal the Kuratorium has established an encompassing outline for future debates on the development and re-formulation of an alternative constitutional document for Germany.

4. Such proclamations for contestations began in 1990 at women's congresses in Berlin, Weimar, Potsdam, and Frankfurt/Main, culminating by the fall of 1990 with a major congress in the Paulskirche (Church of St. Paul) in Frankfurt. Here 800 prominent eastern and western German women leaders from labor unions, politics, and academia discussed how they would prepare and legally design a women's manifesto for including in the re-formulated constitution.

5. Here I am following Pierre Bourdieu's conceptualization of habitus, where
habitus "is a set of dispositions which incline agents to act and react in certain ways. The dispositions generate practices, perceptions and attitudes which are 'regular' without being consciously co-ordinated or governed by any 'rule.' The dispositions which constitute the habitus are inculcated, structured, durable, generative and transposable" (John B. Thompson 1991, 12). Since Bourdieu’s theory was not written for capturing social change, it loses analytical value for the examination of actors’ reorientations to "habitus" following the breakdown of the social structure and, following unification, the ensuing imposition of a new form of habitus.

6. To my knowledge anthropologists have not yet researched how people in eastern Europe cope with the changing nature of the secular rituals that previously helped the youth to become incorporated as citizens into their respective society (and state structure). During my fieldwork I was invited to participate and observe the social confusion that arose for parents when the annual time of the life-cycle ritual Die Jugendweihe began. In a forthcoming paper I will describe and analyze this paradox of ritualistic practices that were intended for integration within a previous social system, but which are being carried out in a new, different social system.

7. Presently, what seems to develop in various countries in eastern Europe is a conservative movement headed by leaders who seek to enhance their power base by appealing in their ideological practices to the fearful, and thus often
marginalized, social groups in the society. Within a political culture of particularistic values (such as exclusion, rigidity, separateness, intolerance, nonreciprocal norms, and projective and social image transmission), such conservative leaders indirectly support and/or condone the promotion of alienation, national egoism, scapegoating, cultural discrimination, and gender disempowerment. Within this framework they skillfully question universal values of freedom, self-determination, equal rights, and solidarity with oppressed social groups, both nationally and internationally.

Today within eastern Germany the West-German based Republikaner Partei aggressively tries to recruit its members from the skinheads and uprooted, unemployed youth, particularly those who are left without any immediate hope for vocational training after the previous economy was dismantled overnight, a dismantling which had no policy conceptualization from West German politicians of what to do with the different generational groups of unemployed people. The only party in eastern Germany which presently tries to channel the anger and confusion of the unemployed is the Partei des Demokratischen Sozialismus (PDS). During my research this situation became confirmed during the first state elections after Berlin became united. For example, in six out of ten urban districts the PDS won the most votes (and seats) with pluralities of between 30.9% and 35.8%. In the remaining four districts the PDS received the second largest pluralities with votes from 23.4% to 27.2%, second to the SPD’s winning votes of between 32.8% and 38% of the total.
New to the western Berlin territory was the emerging electoral gains of the extreme conservative Republikaner party which—surprisingly—hardly gained despite their aggressive recruiting among eastern Berliners. The fact that the PDS was so successful in the election made the party rethink their strategies. Presently many disenfranchised intellectuals and former SED (Sozialistische Einheitspartei Deutschlands, the controlling party of the former GDR) functionaries are forming a coalition with those eastern German CDU politicians who were patronized and disempowered by West German CDU politicians. These latter politicians currently are trying to establish themselves in political leadership roles of the eastern German states.

8. Eastern German women often complained to me that unemployed men now were better off than unemployed women because in the legal culture and economy of the FRG men received better starting chances than women. In fact, one female psychologist whom I interviewed maintained that men’s voices previously were less noticeable at work, but that since unification her male colleagues have verbally begun to be more aggressive with female colleagues, in such ways as talking down to them.

9. On 9 May 1992 I was invited by the working groups of the women from Bündnis 90, Grüne (AL) and UFV to participate in a one-day emergency meeting at the Humboldt University in Eastern Berlin on the issue of "Dequalification of East-
Women: Reality or Phantom?" (Dequalifizierung von Ost-frauen: Realität oder Hirngespinst?) New research statistics presented at this meeting confirmed that 62.9% of women in eastern Germany were unemployed. Women were found also to have lost their jobs (via plant/industry closings, reorganization, privatization dismantling of collectives, lay-offs, "reduction in forces," etc.) in "traditional" GDR female employment branches, such as in the trade industry where women constituted 73% of total employees in 1989 compared to 55% in 1991, or in the service sector where women made up 71% of the work force in 1989, but only 53% in 1991. In 1990, 100,000 women were employed in positions requiring the highest degree qualifications; in 1991 almost all of these women were unemployed. While most women's professions and their degrees are being dequalified, those women who have started to re-educate themselves are now faced with the dilemma of retraining themselves under FRG educational standards, but having no job future. Hence, the meeting's leading conclusion was that "all reschooling of disqualified women is useless if we do not know where it will lead to." The meeting resulted in the participants formulating a document of ten demands that were then delivered directly to the lord mayor at the Berlin city hall.

10. Several of my informants were engaged in bringing forth litigations. According to their experiences, neither the legal staff nor the bureaucracy is presently prepared to efficiently deal with the fast-growing number of cases or with the confusion in eastern and western German differences of legal culture.
11. Within the current changing conditions for women in eastern Germany, women's economic independence is rapidly vanishing, and numerous women informed me of the fact that divorce rates are declining since, under the new legal rules of unemployment, women who seek eligibility for receiving state assistance are first required to demonstrate that they are financially dependent on their husbands' income. During my research there were no reliable statistics available for capturing this new process.

12. This law was passed in the states of Hessen, Saarland, Berlin, and the city-states of Bremen, and Hamburg.

13. A woman who is elected as the representative is responsible for overseeing the correct application of the anti-discrimination law with regard to women at the workplace. This representative has the right to challenge an anti-discrimination decision by demanding a review of the case by members of the standing section for women's politics within the applicable state's senate, or parliament.

14. According to this definition sexual abuse is any unnecessary bodily contact: unsolicited verbal sexual remarks; unsolicited remarks, comments, or jokes referring to the physical appearance of an employee; display of pornographic exhibitions on the job; and requests for sexual favors at the workplace.
15. The quota criteria for this proposed anti-discrimination law stipulate that women must receive preferential treatment in selection for, and participation in, specialized training and professional meetings that are designed or applicable for higher-level management decision-making positions. This rule is required to be enforced as long as women in a given public office are underrepresented.

16. In 1991-92 diverse church-based West German groups already were active in eastern German hospitals trying to establish counseling services for women who decided for abortions. Women activists from the Unabhängiger Frauenverband (UFV) in Berlin periodically visited in eastern Berlin hospitals to lend psychological support to eastern German women who had become confused by some church groups’ labeling of them as immoral.

17. The Bundesrat, a federal council made up of states’ government representatives and party delegates, but who are not publicly elected to the council, must review and decide on the legal soundness of parliamentary legislation which would have wide reaching applicability to the whole society.
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