

Re-Unification and Reproductive Rights:  
Abortion in the German Public Sphere, 1989-1990<sup>1</sup>

Andrea Wuerth, Whitman College

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Center for European Studies  
University of North Carolina, Chapel Hill

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"The fight over abortion is dividing the nation shortly before its unification."

*Der Spiegel*, 14 May 1990

Nationalism is a central concern to many scholars in the field of German studies; yet, social scientists who focus on German nationalism rarely have regarded the German nation and German national identities as "constructed", and even more rarely as "gendered."<sup>2</sup> In this paper I attempt to bring recent scholarship on nationalism to bear on contemporary Germany. This recent wave of scholarship has been heavily influenced by Benedict Anderson's notion of the nation as an imagined community.<sup>3</sup> The notion of a national "community" allows us to generalize about the sentiments and attachments nationalism inspires -- what John Borneman alternatively has called "belonging"<sup>4</sup> -- and allows us to focus on the cultural variations among nationalisms; it suggests that national borders are more fluid than the official borders between states and change constantly in the political and popular imagination.

Though Anderson does not deal with gender in his discussion of nationalism in any systematic way, his often-quoted description of the nation as a "deep, horizontal comradeship," highlights Anne McClintock's observation that, "All nationalisms are gendered."<sup>5</sup> The masculinized notion of "comradery" lends credence to Cynthia Enloe's claim that "nationalism typically has sprung from masculinized memory, masculinized humiliation and masculinized hope."<sup>6</sup> Alternatively, Floya Anthias and Neera Yuval-Davis have noted that women's national identities have been defined in terms of re-producing the nation, literally and figuratively (when women are regarded as embodiments of the nation or symbols of its purity, continuity, vulnerability, or, alternatively, as objects of national conquest.)<sup>7</sup>

In speaking of nationalism in post-Wall Germany, it is crucial to identify how gender

figures in to the *dynamic* process of nation-building. R. Radharkrishnan's query is particularly useful in this regard: "Why is it that the advent of the politics of nationalism signals the subordination if not the demise of women's politics? Why does the politics of 'one' typically overwhelm the politics of the 'other'?"<sup>8</sup> Rather than asking, Why?, I suggest that these questions are better rephrased as "how" questions and applied to a multiplicity of contexts from which we then can draw more general conclusions. We should be focusing on how political parties and social movements influence the conceptualization of nation-ness at specific times and in specific places. As Andrew Parker writes, "there is no nationalism in general such that any single model could prove adequate to its myriad and contradictory historical forms."<sup>9,10</sup>

Here, I examine how versions of German nationalism are reflected in the discourses that accompanied the institutional unification of the two German states. One particular version of the national community, crafted by conservative west German politicians in opposition to progressive politics in general and feminist politics in particular, became dominant in the post-Wall public sphere. For a "moment" in German politics-- from late 1989, when the east German state collapsed and the Berlin Wall was opened, to approximately October 1990, when the two German states were unified into one Federal Republic-- a new set of political actors became entered the public sphere. During this period, one issue-- abortion-- became, according to Konrad Jarausch, the "most emotional issue" of unification.<sup>11</sup> The West German law, known as Paragraph 218, was relatively restrictive, allowing for abortion under prescribed circumstances only, while the East German law allowed for abortion on demand in the first trimester (*Fristenloesung*). Shortly after the opening of the Wall, abortion rights advocates in east and west Germany mobilized in support of the liberal East German abortion law and in opposition to

Paragraph 218. Their efforts intensified in Spring of 1990 when the conservative government announced its intentions to extend the restrictive Paragraph 218 to united Germany.

Understanding how abortion became the "most emotional issue" of unification can reveal the "gendered-ness" of unification. Rather than a curious co-incidence, the conflation of unification and abortion suggests how gender and sexuality are central to the constitution of post-wall German national identities in historically familiar ways. As feminist historians of Germany have shown, abortion and other matters regarding reproduction continuously have been a central part of political discourses on nationhood though these discourses have taken various forms.<sup>12</sup> Further, as Jane Jenson has suggested in the French context, changes in discourses on reproduction and women's rights reflect changes in national political agendas.<sup>13</sup> Specifically, in the national community imagined by many German policymakers, national unity and efforts to restrict women's bodily autonomy must be regarded as co-incidental and inseparable developments; both (national unification and abortion politics) cannot be understood without the other. Careful consideration of the specific context of post-wall Germany, we can arrive at an understanding of how abortion rights-- especially the rights of east German women who had had the right to abortion on demand-- were curtailed in united Germany. Stated in yet another manner, the debate on abortion in the post-wall period can be read as a "site" in which national identity was contested.

Taking the position of a social constructionist, I consider the period following the wall as a moment in which a new German nation was being constructed discursively to legitimate the political union of the West and East German states. Geoffrey Bennington has written: "At the origin of the nation, we find a story of the nation's origin."<sup>14</sup> The story of the abortion debate can

be told to illuminate the story of the origin of this particular German nation (FRG + GDR = Germany, or, as one popular acronym put it: BRDDR, or FRGDR). Roughly, the story goes like this: the Communist East German state was politically, economically, and most importantly, morally bankrupt; this state encouraged abortions as a means of family planning. In contrast, the West is a moral state that protects all "life." The West rescued the East and now all can live happily with Paragraph 218. This is an illustrated tale featuring what historian Barbara Duden refers to as the public fetus whose cultural weight is key to understanding the outcome of the tale.<sup>15</sup> The story is supported by moral claims, with a hero (the west German state) who saves the innocent fetus and welcomes the fetus as the newest member of the German national community. Such a tale's appeal lies in that no blame is directed against women; the villain is not so much the woman who aborts, but the East German state. (Women play no visible, vocal role in this story except as the pawns of a corrupt, manipulative, exploitative state; however, it goes without saying that the woman who aborts or who demands the right to do so is not a member of the moral community.) Though the story failed to convince completely (the narrative was interrupted by cries from feminists and other abortion rights advocates), it eventually had a profound impact on legitimating the united German state and determining the outcome of the abortion debate. Thus, it is significant that the re-nationalization of the German public sphere made the position of advocates of women's right to reproductive autonomy untenable-- actually dealing them a setback. Dominant Christian Democratic discourses condemned the immoral East German state for "promoting" abortion, and elevated the protection of unborn life to a central hallmark of the new Germany. This paper will suggest why and how this occurred.

In this paper, I will suggest first that the language of women's rights dominated debate in

the public sphere during the "post-revolutionary period," until approximately the Christian Democrats' election victory in March 1990. Then, in the "re-unification period" following the election, the Christian Democrats (CDU) began to undermine efforts of abortion rights advocates by suggesting that the protection of motherhood and the protection of unborn life serve as hallmarks of the new moral, modern German nation, rendering reproductive rights advocates radical and marginal in united Germany. The genderedness of nation-building in the post-Wall period is reflected in the simultaneous processes of the nationalization of the public sphere and the closing of what Sidney Tarrow has called the political opportunity structure (discursively understood here) for reproductive rights advocates.<sup>16</sup>

### Political Opportunities and the Public Sphere: Deconstructing Discourse

The abortion debate had been building in West Germany long before the opening of the Berlin Wall. The term "self-determination" was popularized in the early 1970s by West German feminists who thereby asserted women's autonomy in matters of reproduction and radically challenged "maternalist" discourses defining women's primary responsibility as mothers.<sup>17</sup> The sudden collapse of the East German state and the opening of the Wall in 1989 facilitated the formation of a broad abortion rights campaign by essentially opening the public sphere to new political actors, or alternatively, "civil society."<sup>18</sup>

One example of the development of civil society is the appearance of an independent feminist movement in East Germany. On December 5, 1989, 1200 women gathered in Berlin and called into being the first feminist organization in East Germany-- the Independent Women's Association (*Unabhaengiger Frauenverband*), or UFV.<sup>19</sup> The program of the UFV was

sweeping in its critique and proposals for change. The authors insisted that women's issues were critical and should be central: "We must insist that women's questions are not marginal social problems but existential fundamental questions."<sup>20</sup> Having been told for years by the SED government that women's issues were secondary to the establishment of a vibrant socialist society, these feminists demanded that the newly-elected parliamentary representatives in east Germany include "a woman's right to self-determination over her body" in the new East German Constitution, emphasizing the accomplishment of the East German government in defining abortion as a woman's right. The Independent Women's Association emphasized improvement of women's health facilities, counseling centers, and called for the free distribution of improved contraceptive methods and sexual education.

In addition, the opening of the Wall made possible a public debate on abortion practice for the first time in East German history. Though abortion had been legal since 1972, women could not discuss their experiences in public. Gabrielle Grafenhorst's book Abbruch-Tabu which contained interviews with women who had had abortions which she clandestinely conducted prior to the opening of the wall was published in early 1990 and received much attention in the press.<sup>21</sup> Also, a brand new, popular East German feminist-cultural magazine, Ypsilon, focused on abortion in one of its first editions in Spring 1990. This edition featured interviews with women and doctors, revealing some of the degrading conditions, discriminatory experiences, and ambivalent feelings that previously could not be voiced and "worked out".<sup>22</sup>

West German feminists responded with tremendous enthusiasm to these developments, and expected that East German women's experiences with and strong support of a liberal abortion law would revitalize their long, up-hill fight against the criminalization of abortion. Clearly

expressing feminists' optimism of the time, editor Alice Schwarzer wrote in the feminist monthly,

Emma:

Will the two male-societies [Maennergesellschaften] really be able to push through an all-German liberalization of abortion (at least in the first trimester)? ... Let's work together! Together we are stronger! Together we can become a new German women's movement!<sup>23</sup>

East German feminists reluctantly recognized that unification was inevitable in early 1990 and then very actively sought cooperation with abortion activists in West Germany.<sup>24</sup> Tatiana Boehm, an East German feminist, summarized these events:

The chances and possibilities to start on the road to civil society, which would have incorporated the democratic order of the FRG, the experiences of the fall revolution of the GDR, and the experiences of the women's movement could not be used. But the questions of legal fundamental rights of women opened up a new discussion in the women's movement in East and West Germany. It provided the possibility for a joint East-West German women's discussion.<sup>25</sup>

Boehm's statement suggests how changes in the political system affects east German feminist politics. Unification left them little choice but to shift the focus of their political activity from democratic state-building (Constitution-writing, establishing new policy frameworks) to western-European style movement politics. While they had been engaging in public discussions about the implications of democracy for society in general and women in particular, East German feminists now focused their energies on feminist coalitional politics. While some activists, like Boehm, regarded this shift optimistically, much of this optimism later gave way to a sense of loss and limitations. Many East German feminists described how they shifted their goal -- from reforming the old GDR state to resisting the worst consequences of annexation by the West German state. Many focused on maintaining their right to first trimester abortions since they felt that this particular issue had the most popular appeal in both German states. Surveys in East and West

indicated widespread approval for the East German abortion law. Boehm observed that before March 1990:

Opinion polls showed that 77 percent of the eastern population wanted to retain [legal first trimester abortions] while 8 percent even wanted the right to a legal abortion at any time during the pregnancy period. In West Germany, two-thirds of the people desired that term-based legislation be introduced there.<sup>26</sup>

Encouraged by this popular support, legislators from all center-to-left parties as well as feminist and other abortion rights groups in West and East Germany appeared unified in their support for a woman's right to self-determination, the notion that women should have the right to make the final decision in the case of unwanted pregnancy. In May 1990, the West German news weekly, *Der Spiegel*, reported: "Politicians from all parties are pushing openly as never before for a rejection of *Paragraph 218*."<sup>27</sup> Politicians and activists sought a "...solution that would make it possible for the Federal Republic to take over the more liberal law of the GDR."<sup>28</sup> There was even speculation that the government coalition would fall apart as a result of the insistence of the leaders of Liberal party (FDP), the small but significant coalition partner of the ruling Christian Democratic party, on legalizing first-trimester abortions.<sup>29</sup>

On June 16, 1990, more than ten thousand people attended a demonstration in Bonn sponsored by the National Coordinating Group of Women against Paragraph 218. Speakers included union representatives from some of the major West German unions, the Greens and the East German citizens' initiatives and feminist groups. The demonstration was covered favorably and at length by some major West German newspapers. The liberal *Frankfurter Rundschau* reported:

With the exception of a few incidents the mood of the opponents of *Paragraph 218* in Bonn corresponded with the state of the weather: sunny for the most part. Men from the entire federal territory responded to the appeal of the nationwide

Initiative, "Women against §218." They carried their children on their shoulders, in slings and strollers and demonstrate loudly for the right of women to decide whether or not to have children.<sup>30</sup>

Many speakers focused on the rights of women in East Germany. East German activists, like Christina Schenk, articulated their own terms of "belonging" to the German national community in terms of abortion rights. By demonstrating on the *Muensterplatz*, the central square in Bonn approximately one mile from the *Bundestag*, citizens of both German states demanded that women's reproductive rights be embedded in the blueprints of national unification.

This example of media coverage indicates that East German women's rights were openly and sympathetically discussed in the early days of the post-wall abortion rights campaign. The liberal media acted as a voice of civil society, covering political action by non-state actors and pro- abortion rights politicians alike. At this time, it was not unusual to hear "mainstream" politicians talk of the right to abortion as a fundamental human right. However in the final controversies surrounding unification and abortion in July and August, east Germans -- and especially east German women-- played a peripheral role. As Jarausch observed: "The final controversies involved competing interests in the West rather than objections by the East."<sup>31</sup>

In short, abortion rights activists' appeals to self-determination can be read as efforts to contest the terms of national unification espoused by conservative politicians who hoped to impose Paragraph 218, along with the rest of the laws of the west German state, on East Germans. Barbara Einhorn emphasizes that the East German citizens' initiatives-- including the feminist movement-- should be regarded as a movements for meaningful citizenship within a civil society, i.e. as embodying "active agency, the assertion of full individual autonomy within a

community dedicated to the wellbeing of its members."<sup>32</sup> Thus, feminists' ideas about gender equality and reproductive rights can be regarded as contributions to a civil, national community. By protesting against the Christian Democrats' portrayal of East German policies, abortion rights advocates attempted to draw public attention to the conflicting understandings of the position of women in the German national community.

#### Analysis: The Unity Treaty and Abortion

Parallel to the debates on abortion, an inter-party, FRG-GDR commission decided on the procedures for unifying the two German states. The procedural debate was shaped strongly by opposing views on the meaning of German nationalism, the German past and German identity. Before the March 1990 election the opposition Social Democratic party (SPD) had suggested a much more gradual unification process. Drawing from the civic movement the SPD leadership argued for the "widening and deepening" of democratic principles. SPD negotiators advocated the expansion of constitutionally-guaranteed rights, including "the right to a job, worker codetermination, direct democracy, more federalism, multi-culturalism, and gender equality."<sup>33</sup> The party also favored adopting a liberal abortion law. The CDU argued in favor of unification according to Article 23 of the West German Basic Law that would essentially extend the Basic Law to united Germany. All but a few critics, including some of the leading East German activists, questioned the desirability of unification.<sup>34</sup> In a series of events following their election victory in March the CDU rapidly completed the transition from socialism to nationalism, in this case by essentially "annexing" east Germany.<sup>35</sup>

Women were noticeably absent from these debates on unification.<sup>36</sup> Their outspokenness

on the abortion issue, however, stalled the completion of the Unity Treaty for weeks. The commentary from the *Spiegel* in mid-May, that "the fight over abortion is dividing the nation shortly before its unification,"<sup>37</sup> implies the limitations of challenges to the West German abortion law by suggesting how national unity and abortion were conflated. By suggesting that the abortion disputes "were dividing the nation," advocates of abortion rights appeared as divisive and essentially as opponents of national unity since they were perceived as questioning the primacy of "national" as opposed to other, lesser concerns. In the same vein, Konrad Jarausch notes that Social Democrats gave up their demand for a liberal law when they concluded, "... that nobody would understand the failure of the treaty over the abortion issue."<sup>38</sup> Afraid of appearing to oppose German unity, the Social Democrats and others relinquished their insistence that the right to abortion be guaranteed.

One might bring Hayden White's notion of the master-narrative to bear on Jarausch's observation.<sup>39</sup> National unity -- abstract and imagined as it was-- was assigned a sort of importance that rendered women's issues as secondary. Assumed in this master-narrative is a sort of natural hierarchy that places "universal" concerns above what are perceived to be "particular" ones; in this case, the fact that abortion is configured as a woman's issue and *not* a national issue relegates it to secondary importance. The assumption that *no one would understand* (Jarausch) if the priorities were reversed suggests the intense urgency of unification, as well as the deeply-seated, hegemonic nature of the master-narrative; it also suggests how quickly the mobilization of the cultural weight of nationalism could be used to silence feminist concerns and voices.

Negotiations over the Unity Treaty reached the final stages in July and August 1990. When we examine the German public sphere more closely it becomes clear that after dominating

public debate, abortion rights advocates were marginalized by the "dominant discourse of unification" -- a gendered discourse (though not readily apparent as such). Shaped by the Christian Democrats this discourse was based on the discrediting of the GDR and on the presentation of West German culture as "morally superior." Spokespersons for the CDU attacked the "atheistic, immoral" East German state's policies for women (*Frauenpolitik*) which "forced" women to work and "propagated abortion" as a means of family planning.<sup>40</sup> Many of the themes raised by East German feminists concerning the practice of abortion in East Germany were taken up by opponents of abortion liberalization who used such statements to portray the GDR as exploitative and dehumanizing. As Barbara Einhorn observed, concerns about high numbers of abortions, even in Eastern European countries where the numbers were very high, is part of "an anti-abortion sub-text, suggesting that freely available legal abortions *inevitably* mean a high rate of abortion... ." <sup>41</sup> Reducing the number of abortions and protecting life-- hallmarks of the moral West Germany-- were espoused as national goals, displacing appeals to women's rights.

According to the Kohl government, the GDR's liberal abortion law, as well as its laws generally decriminalizing homosexuality, epitomized the criminal law of this morally-corrupt state. The official government brochure accompanying the treaty stated that the GDR's laws pertaining to abortion -- as well as the state's decriminalization of homosexuality-- indicates how their criminal legal system,

... was especially subjected to the formerly socialist state and social system as well as, in particular, the economic structure of the planned economy. It contained countless prescriptions that did not correspond to the principles of a *liberal democratic legal order (freiheitlichen demokratischen Rechtsordnung)*.<sup>42</sup>

The government's reference to *liberal* democracy in this passage runs counter to the ways in

which German and U.S. feminists have employed liberal principles in their campaign for abortion rights. As Cynthia Daniels notes: "The right to self-sovereignty, defined here as the simple right to bodily integrity, is the primary foundation of liberal citizenship. More fundamental than the right to vote and to be recognized as a formal citizen, more fundamental than the right to work and to earn one's living, is the right to control one's own body."<sup>43</sup> In direct contrast to such viewpoints, the Unity Treaty illustrates how liberal as well as moral language was incorporated into the government's anti-abortion agenda.

While commissioning the legislature with the task of determining a new law, the Unity Treaty specified that the future abortion law should "... insure, better than is presently the case in both parts of Germany, the protection of unborn life...".<sup>44</sup> Rather than resolve the controversy, the treaty left the two laws in tact and commissioned the new German legislature to come up with a new law; though this decision that was regarded as a victory by most abortion rights proponents, it is the wording of the Treaty and its codification of a sort of national consensus that is significant. The Treaty's authors thereby presented these highly contested terms as though there was a consensus on their meaning and relevance, essentially establishing the framework for the abortion debate. While maintaining the two different abortion laws, the Unity Treaty nevertheless established the protection of unborn life as a national value rather than a highly contested premise. The dominant discourse in effect redefined the "political," pushing advocates of self-determination who had dominated the revolutionary public sphere to the margins of the debate. The options available to abortion rights advocates were significantly limited by this shifting context.

One might interpret the Unity Treaty as a codification of the dominant or official version of the national community. Carroll Smith-Rosenberg has suggested in the context of the U.S.

constitutional debate, that a nation exists insofar as national subjects exist (or are created).<sup>45</sup> Similarly, John Borneman has argued, "... the state codifies and legalizes the desires for specific kinds of relations and specific kinds of selves."<sup>46</sup> The statement of principles and regulations in the Unity Treaty, perhaps even more so than the laws governing citizenship, can be considered state strategies for defining the terms of "belonging" to the German nation. According to the Christian Democrats, the liberalization of homosexuality and abortion were antithetical to "liberal democracy;" the "protection of unborn life" was morally juxtaposed with liberal abortion practices and legalized homosexuality, culturally-familiar signifiers used to suggest the moral bankruptcy of the GDR. Such appeals, as historian Robert Moeller has argued, follow the precedent of post-war CDU family policies in which virulent anti-communism and the protection of motherhood and the (heterosexual) German family went hand-in-hand.<sup>47</sup> The Christian Democrats now attempted to define membership in the new Germany along similar lines. By attacking the state rather than women *per se* they presented the Christian West Germany as a moral state, one which protected and valued life, mothers and family. Thus, the passages in the Unity Treaty related to abortion suggest how national discourses and gendered discourses were linked and codified in arguably the most weighty of national documents. In short, east German women apparently were expected to relinquish their right to an abortion in order to become members of the "liberal" and "moral" Germany.

After the Unity Treaty was finalized, the debate on abortion moved from the public sphere to committee meeting rooms in Bonn and took place almost exclusively among West German legislators and "experts."<sup>48</sup> Though the legislative debate was just beginning in late 1990, the efforts of the Christian Democrats to codify the significance of fetal protection already had

put abortion rights advocates on the defensive. Abortion rights advocates had been successful in stopping the immediate imposition of Paragraph 218 at the time of German unification in October 1990, yet the government's strategy of discrediting the GDR effectively tied the hands of east German legislators and activists and rendered east German women invisible. Thus, unification dealt the abortion rights campaign, which has begun by strongly endorsing the east German law and defending east German women's rights, a decisive setback. Legislative reformers who had endorsed abortion rights then backed away from referring positively to East Germany's abortion law sometimes even echoing the types of moral condemnations made by the Christian Democrats. After unification the debate on the new abortion law focused on the merits of Paragraph 218 rather than on the East German law.

To summarize, by mid-1990 as a result of the Christian Democrats' public discursive strategy intended to legitimize the take-over of East Germany -- a dominant discourse based on an undifferentiated condemnation of the East German state--, the boundaries of the "political" were shifted in ways that had a decisive effect on the abortion debate. At the beginning of the campaign activists appeal for a woman's right to self-determination was based strongly on a positive portrayal of East German women's experience under a liberal abortion law. Activists from East and West enthusiastically exchanged ideas for common protest actions and formed joint organizations against Paragraph 218. But as unification progressed the discourse of women's rights and the achievements of East German women all but disappeared from public debate.

Finally, West and East German legislators and activists defended the East German abortion law in the first months following the opening of the Berlin Wall, many abortion rights' advocates redefined *their* strategies for achieving abortion reform by endorsing the goal of

"protecting life" after unification. Thus, for example, Margarete Nimsch, spokesperson for the Greens in Frankfurt, stated: "It became clear [in the months after the opening of the Wall] that the liberalization [literally, "release"] of abortion in the GDR was less an expression of advanced emancipation than an expression of a fundamentally inhumane system." According to Nimsch, "... all [parties] now agree that [abortion] is or should be a matter of protecting life."<sup>49</sup> This strategy represents the relinquishing of the pursuit of more radical reform and suggests the limitations of defending women's rights in the post-Wall public sphere. East German legislators and activists -- many of whom objected to this sort of argumentation and continued to endorse self-determination-- were marginalized, peripheral voices in post-unification Germany.

#### Postscript: Abortion as Treason, Abortion as Dissent

In post-wall Germany, abortion rights advocates temporarily exposed the centrality of reproduction to nationalism by vocalizing the issue of abortion at a time of major political transition. By proposing that a woman's right to self-determination form part of a progressive blueprint for a unified, democratic Germany, they rejected the notion that women's issues are secondary to national issues, suggesting how this strategy was being used to sideline women's rights. Nevertheless, abortion rights advocates failed to have a significant impact on the outcome of the debate on the new abortion law. The CDU's discourse of fetal protection developed largely as a response to this challenge and, ultimately confined and restricted the choices made by legislators and activists favoring abortion rights. One might thus adapt Sidney Tarrow's notion of the political opportunity structure by adding a discursive dimension: moralistic, anti-feminist nationalism limited the opportunities for those advocating women's rights.

The legislative debate continued for almost two years following unification. In July 1992, an unusual center-to-left majority -- a coalition consisting of representatives from the SPD, the FDP, the Party of Democratic Socialism (PDS), the former east German Communist party (Socialist Unity Party, or SED) and a few CDU moderates -- passed a new abortion law permitting abortions only after women underwent mandatory "pro-life" counseling. Despite the fact that the law fell considerably short of their original proposals for legalized first trimester abortions, many feminist legislators celebrated this law as a victory. Such a celebration can be read as an indication of how significantly the CDU's discourse reshaped the context of the debate significantly once it moved from the streets to the committee meeting rooms in the *Bundestag*. Abortion rights advocates faced another setback when the German Constitutional Court ruled in May 1993 that, "The termination of pregnancy must be regarded fundamentally as wrong [*Unrecht*] throughout the entire period of the pregnancy and thereby must be considered illegal. The right to life of the unborn may not be placed, even if just for a limited period of time, in the hands of a free, not-legally-bound decision of a third person, even the mother herself."<sup>50</sup> While attempting to work for women's rights within a "pro-life" discursive framework, pro-abortion rights legislators witnessed how this discourse was used to deny women virtually all autonomy in reproductive decisions and to legitimate an increasingly larger role for the state in influencing those decisions.<sup>51</sup> The restrictive abortion law and the Court's ruling are powerful signifiers for the gendered-ness of belonging to the new Germany, an imagined community in which German women are expected to accept motherhood as their moral *responsibility* and in which pregnant women's rights are sharply curtailed.

Feminists' efforts to bring women's experiences into the public sphere ultimately failed.

Women's rights became recognized as marginal to German national identity formation. Thus, national discourse legitimates the marginalization of women's rights claims and the possible violation of women's bodily integrity and limits women's abilities to mobilize against it. This outcome would not have been possible had it not been for the "public fetus." As the Constitutional Court decision suggests, the fetus represents a new class of German citizens-- the unborn. The latest debate in Germany, and the mandatory, "pro-life" counseling clause in the new German abortion law, reflect the state's continued interest in regulating women's reproduction and sexuality and suggests that women's bodily integrity is likely to be increasingly disregarded. The rights of the fetus are weighed *against* those of pregnant women who have responsibilities and duties toward it and toward the state. The mandatory counseling measure, which requires all counselors to tell women seeking a legal abortion that abortion is the killing of life, can be read as an effort on the part of the state to insure that women are reminded that the fetus is a citizen and a member of the national community. Since the fetus is included in the national community, seeking an abortion might be regarded as an act of disengagement from the national project and, thus, an act of treason; abortion might conceivably be an act of dissent as well if women resist the state's "pro-life" message. The purpose of counseling thus can be read as raising women's national consciousness and educating women of their responsibilities to the national community-- namely, as its reproducers.

In this study of abortion politics I have argued that the abortion law reform debate was shaped significantly by the nationalization of the post-Wall public sphere and the unification of the two German states. I have claimed, alternately, that the abortion debate sheds light on the unification process and German national identity. Specifically, the debate on abortion suggests

how the "national subject," was constructed in terms of gender in historically-familiar ways, and with some "new" twists. Significant about the case of abortion is that East German women *lost* a right in united Germany and that in the new German public sphere, the idea that a woman has a right to an abortion is a *radical claim*; it then seems as though abortion itself can be considered an act of dissent, or alternatively, of resistance to the hegemonic, gendered discourse of nation-ness that currently defines "belonging" in the new Germany.

## Notes

- 1 .. An earlier version of this paper was presented at the Center for European Studies at the University of North Carolina, Chapel Hill in March 1997. I would like to thank the Center, Dr. Angelika von Wahl, and the German Academic Exchange Service (DAAD) for providing me this opportunity to discuss my research.
- 2 .. One notable exception to the latter is Robert Moeller's study of anti-communism and gender in west Germany. See, Protecting Motherhood: Women and the Family in the Politics of Postwar West Germany (Berkeley: University of California Press, 1993)
- 3 .. Benedict Anderson, Imagined Communities (New York: Verso, 1983).
- 4 .. John Borneman, Belonging in the Two Berlins: Kin, State, Nation (New York: Cambridge, 1992, especially 313-333.
- 5 .. Anne McClintock, "Family Feuds: Gender, Nationalism and the Family," Feminist Review 44 (Summer 1993).
- 6 .. Cynthia Enloe, Bananas, Beaches and Bases: Making Feminist Sense of International Politics (Berkeley: University of California Press, 1990) 44.
- 7 .. Nira Yuval-Davis and Floya Anthias, eds. Woman-Nation-State (New York: St.Martin's Press, 1989).
- 8 .. R.Radhakrishnan, "Nationalism, Gender, and Narrative," Nationalisms and Sexualities, eds. Andrew Parker, et.al. (New York: Routledge, 1992) 78.
- 9 .. Andrew Parker, Mary Russo, Doris Sommer, and Patricia Yaeger, "Introduction," Nationalisms and Sexualities 3.
- 10 .. In addition to studying how differing understandings of nationalism inform the agendas of policymakers and social movements, we also need to take more account of local actors in our analyses of nationalisms. In the larger project of which this essay is a part, I draw on anthropologist John Borneman's idea of the daily acting out of nation-ness -- or, in Borneman's words, the practice of "belonging." One might summarize this endeavor with a twist on a familiar slogan: the political is also personal. As Borneman argues, drawing on Pierre Bourdieu, "The dynamic aspects of any set of practices are more apparent on the borders of experience than in the center; thus, in describing the range of practices, I often incorporate what might be statistically peripheral experiences." (Borneman, Belonging, 47) By focusing on how peripheral actors articulate experiences on the periphery, we can examine how national discourses play into identity formation and how different actors-- minorities and women, for example-- understand "Germanness" by incorporating, as well as modifying and resisting hegemonic or dominant definitions.
- 11 .. Konrad H. Jarausch, The Rush to German Unity (New York: Oxford University Press, 1994) 172.
- 12 .. See especially Atina Grossman, Reforming Sex: The German Movement for Birth Control and Abortion Reform, 1920-1950 (New York: Oxford University Press, 1995) and Renate Bridenthal, Atina Grossman, and Marion Kaplan, eds. When Biology Became Destiny (New York: Monthly Review, 1984). See also, Cornelia Osborne, The Politics of the Body in Weimar Germany: Women's Reproductive Rights and Duties (Ann Arbor: University of Michigan Press, 1992).
- 13 .. Jane Jenson, "The Liberation and New Rights for French Women," in Behind the Lines: Gender and the Two World Wars, eds. Margaret Randolph Higonnet, et.al. (New Haven: Yale University Press, 1987).

14 .. Geoffrey Bennington, "Postal Politics and the Institution of the Nation," in Nation and Narration, ed. Homi K. Bhabha (New York: Routledge, 1990) 121.

15 .. Barbara Duden, Disembodying Women (Cambridge: Harvard University Press, 1993).

16 .. Tarrow discusses the political opportunity structure in "National Politics and Collective Action: Recent Theory and Research in Western Europe and the United States," Annual Review of Sociology 14 (1988).

17 .. See, for example, Theda Skocpol, Protecting Soldiers and Mothers: The Politics of Social Provision in the United States, 1870s - 1920s (Cambridge: Harvard University Press, 1992). For discussions of maternalist discourses in numerous European countries in the 19th and 20th centuries, see Seth Koven and Sonya Michel, eds. Mothers of a New World: Maternalist Politics and the Origins of Welfare States (New York: Routledge, 1993).

18 .. Andrew Arato, "Civil Society Against the State," Telos 47 (1981), 23-47, and Crisis and Reform in Eastern Europe (New Brunswick: Transaction, 1991); Gyorgy Konrad, Antipolitics: An Essay, trans. by Richard Allen (New York: Harcourt Brace Jovanovich 1984); George Keane, ed. Civil Society and the State: New European Perspectives (London: Verso, 1988). For a discussion of civil society in the German context, see: Dirk Philippsen, We Were the People: Voices from East Germany's Revolutionary Autumn of 1989 (Durham: Duke University Press, 1993); Volker Gransow and Konrad H. Jarausch, eds. Die deutsche Vereinigung: Buergerbewegung, Annaeherung und Beitritt (Cologne, 1991); Christoph Links and Hannes Bahrmann, Wir Sind das Volk: Die DDR im Aufbruch (Wuppertal: Peter Hammer Verlag, 1990); Marlies Menge, 'Ohne uns geht nichts mehr': Die Revolution in der DDR (Stuttgart: Deutsche Verlags Anstalt, 1990); Helmut Mueller-Enbergs, et.al., eds. Von der Illegalitaet ins Parlament: Werdegang und Konzept der neuen Buergerbewegungen (Berlin: LinksDruck Verlag, 1991).

19 .. For summaries of the founding of the UFV, see: Anne Hampele, "Der Unabhaengige Frauenverband: Neue Frauenbewegung im letzten Jahr der DDR," in Von der Illegalitaet ins Parlament: Werdegang und Konzept der neuen Buergerbewegungen, eds. Helmut Mueller-Enbergs, Marianne Schulz and Jan Wielgoths (Berlin: LinksDruck Verlag, 1991); Eva Schaefer, "Die froehliche Revolution der Frauen: Frauenbewegung in Ost und West," in Wir wollen mehr als ein 'Vaterland': DDR-Frauen im Aufbruch, eds. Gislinde Schwarz and Christine Zenner (Reinbek bei Hamburg: Rowohlt, 1990), 17-34; and, Cordula Kahlua, ed. Aufbruch: Frauenbewegung in der DDR (Dokumentation) (Munich: Verlag Frauenoffensive, 1990).

20 .. Ina Merkel, "Wie alles anfang," in Argument Extra: Ohne Frauen ist kein Staat zu machen, ed. Unabhaengiger Frauenverband (Hamburg: Argument Verlag, 1990) 6.

21 .. Gabrielle Grafenhorst, Abtreibung: Erfahrungsberichte zu einem Tabu (Munich: Deutscher Taschenbuch Verlag, 1992).

22 .. Ypsilon 2 (1990): 8-20.

23 .. Alice Schwarzer, "Jetzt eine neue Frauenbewegung," in Fristenloesung Jetzt! [Emma Sonderband] (1990): 64,66.

24 .. It is important to note that this campaign began as two separate campaigns with different foci. East German feminists had regarded the opening of the Wall as an opportunity to participate in reforming the GDR. Comparing the East German state with the West German state they insisted that their state offered a much more promising basis for "reform from within."

25 .. Tatiana Boehm, "The Women's Question as a Democratic Question: In Search of Civil Society," in Gender Politics and Post-Communism: Reflections from Eastern Europe and the Former Soviet Union, eds. Nanette Funk and Magda Mueller (New York: Routledge, 1993): 157.

- 26 .. Tatiana Boehm, "The Abortion Question: A New Solution in Unified Germany?" German Politics and Society 24/25 (Winter 1991-92): 139.
- 27 .. "Die sind tierisch hinterm Mond," Der Spiegel, 14 May 1990, 70.
- 28 .. "Frauen in der FDP fuer Uebernahme der DDR-Abtreibungsregelung," Tagespiegel (Berlin), 29 April 1990.
- 29 .. "Tierisch hinterm Mond" 70.
- 30 .. See for example, "Als die Kirchenglocken laeuteten, flogen rote Farbbeutel," Frankfurter Rundschau, 18 June 1990.
- 31 .. Jaraus, Rush to German Unity, 172.
- 32 .. Barbara Einhorn, Cinderella Goes to Market: Citizenship, Gender, and Women's Movement in East Central Europe (New York: Verso, 1993) 3.
- 33 .. Jaraus, Rush to German Unity, 169.
- 34 .. Stephen Brockmann, "Introduction: The Reunification Debate," New German Critique 52 (Winter 1991). For an additional critical perspective see, Guenther Grass, Two States: One Nation? (New York: Harcourt Brace Jovanovich, 1991).
- 35 .. For a detailed discussion of these developments see Helmut Walser Smith, "Socialism and Nationalism in the East German Revolution, 1989-1990," East European Politics and Societies 5:2 (Spring 1991), 234-246.
- 36 .. Brockmann, "Introduction," 29.
- 37 .. "Die sind tierisch hinterm Mond," 70.
- 38 .. Jaraus, Rush to German Unity, 173. The Social Democratic party leadership now backed away from positions once they had been labeled as "radical" and "anti-national." They strongly disassociated themselves from the left parties of the former East Germany and from policies associated with the former Communist regime, following a pattern of post-1945 West German politics in which members of all political parties distanced themselves from oppositional positions the Conservative government identified as "Socialist" or "Communist" in a word, "anti-nationalist."
- 39 .. Hayden White, Metahistory: The Historical Imagination in Nineteenth Century Europe (Baltimore: Johns Hopkins University Press, 1973).
- 40 .. Ibid., 25. Also see, Hannelore Roensch, "Der bessere Schutz ungeborener Kinder im vereinten Deutschland-- Chance und Verantwortung der CDU," in §218: Zur aktuellen Diskussion, eds. Andrea Hauner and Elke Reichart (Munich: Knauer, 1992), 117.
- 41 .. Einhorn, Cinderella, 86.
- 42 .. Der Einigungsvertrag: Deutschland ist eins (Bonn: Presse- und Informationsamt der Bundesregierung, 1990) 14. Emphasis mine.
- 43 .. Cynthia Daniels, At Women's Expense: State Power and the Politics of Fetal Rights (Cambridge: Harvard University Press, 1993) 5.
- 44 .. Der Einigungsvertrag, 14.

45 .. Carroll Smith-Rosenberg, "Dis-Covering the Subject of the 'Great Constitutional Discussion, 1786-1789," The Journal of American History (December 1992): 841.

46 .. Borneman, Belonging, 25.

47 .. Robert G. Moeller, Protecting Motherhood: Women and the Family in the Politics of Postwar West Germany (Berkeley: University of California Press, 1993).

48 .. The Kohl government created a "Special Committee for the Protection of Unborn Life" (Sonderausschuss Schutz des Ungeborenen Lebens) in late 1990. The Special Committee held hearings in November 1991 in which approximately eighty professionals including church leaders, doctors, psychologists, social workers and legal scholars testified on the merits of Paragraph 218.

49 .. An English version of this text appeared in, Margarethe Nimsch, "Abortion as Politics," German Politics and Society 24/25 (Winter 1991/2): 128-134.

50 .. For an abbreviated version of the court's decision, see Neue Justiz [Sonderheft] (1993).

51 .. Much more can be said about gender and the nation through an analysis of party politics, political action, the court's decision and the new law's implementation. For a more in-depth discussion, see Andrea C. Wuerth, State, Nation, and the Politics of Women's Rights: Abortion Law Reform in Post-Wall Germany, 1989-1993, Ph.D Thesis, The Johns Hopkins University, 1995.