

THE PRIVATE SPHERE AND PUBLIC ORDER: WEST GERMAN DEBATES ABOUT EDUCATION, FAMILY, AND SEXUALITY IN THE 1950S AND 1960S

GHI-sponsored panel at the 27th Annual Conference of the German Studies Association, New Orleans, September 19, 2003. Moderator: Uta Poiger (University of Washington, Seattle). Commentator: Maria Höhn (Vassar College). Panelists: Dagmar Herzog (Michigan State University), Till van Rahden (University of Cologne), Dirk Schumann (GHI).

During the past decade, interest in the history of postwar West Germany has shifted from the reconstruction of the political and economic system to issues of gender and ethnicity, culture and memory, and thus to a much broader notion of national identity. Within this framework, recent studies have examined both the continuities with the Nazi past and the beginnings of the liberalization and democratization of West German mentalities. The three papers of this panel made a novel contribution to this discussion by addressing hitherto neglected issues at the borderline between the private and the public sphere. Through examining debates about schooling, family upbringing, and sexuality, they explored how gender roles and individual and parental rights were defined vis-à-vis the right of the state to intervene in the private sphere. Legal issues figured prominently in these debates. Thus, the papers shed new light on the evolution of West German democratic culture in the 1950s and 1960s.

Dirk Schumann's paper "Authority in the 'Blackboard Jungle': Parents and Teachers, Experts and the State, and the Evolution of West German Democracy" examined the heated debates about school discipline in the 1950s. Centering on the issue of corporal punishment, the debates pitted "traditionalists" against "reformers," who included otherwise staunchly conservative as well as liberal politicians and academic pedagogues. As classes were large and unruly, many poorly trained or recently denazified teachers failed to command authority, and many parents wanted corporal punishment to remain a regular practice at home as well as at school. Hence the reformers' efforts to abolish corporal punishment met with fierce resistance, not the least from most teachers. By invoking the idea of parents' rights to block the reformers' agenda, traditionalists could rightly claim to be distancing themselves from the Nazi regime, which had denied parents any say in school education. This made the situation all the more difficult for reformers, who had to call for renewed state intervention through legal measures to bring about the desired change. Trying to walk a fine line between the entrenched posi-

tions of teachers and parents and their own goals, reformers met further resistance from the courts, which declared that mere decrees abolishing corporal punishment were insufficient to change the unwritten customary law that for decades had allowed a moderate form of corporal punishment. The highest West German criminal court in 1957 upheld this decision. Thorough change began only around 1960, and it was completed only in the early 1970s, with legal regulations now banning corporal punishment in all the West German states. Thus, the paper shed new light on the fits and starts of the liberalization of West German political culture and mentalities in the 1950s and 1960s.

In his paper "Dismantling Patriarchy: Democracy, Fatherhood, and Judicial Politics—the *Stichentscheid* Decision of 1959," Till van Rahden looked at how the reconstruction of the West German family in the 1950s eventually turned away from the conservative path taken by the governing Christian Democrats. In their view, the nuclear family in which fathers worked for the family income and in which mothers cared for the children was a central component of a natural order ordained by God. Hence, they advocated the restoration of paternal authority within the family, although the Basic Law of 1949 would have supported an egalitarian distribution of responsibilities. Yet, as van Rahden argued, a focus on the patriarchal federal and state family policies of the 1950s misses the fact that concepts of increasingly egalitarian gender relations played an important role in West German popular culture. The "father" became an important symbol in the debate about the problems of modern "mass society" and about the democratization of West Germany and the meaning of authority in a democratic society. Between the early 1950s and the mid-1960s, a hierarchical concept of authority based on tradition, order, and obedience gave way to an idea of authority based on trust embedded in egalitarian social relationships. In this context, the Federal Constitutional Court's decision of July 1959 to declare unconstitutional the paternal *Stichentscheid*, ie. the legal sanction of a father's ultimate determination of his children's welfare, played a crucial role. Now the conservative identification of authority with the role of the father had become obsolete, and, by implication, the widely held belief that authority in and of itself was a conservative idea. Thus, the decision helped reconcile democracy and authority and helped make West Germans feel at home in their "liberal republic."

Dagmar Herzog showed in her paper "Sexuality and Crime: Ex-Nazis, Reemigré Jews, and the Liberalization of West Germany" how the moral terms of debate about sexuality in postwar West Germany were redirected and the postwar culture of sexual conservatism was liberalized in the 1960s. The anthology *Sexualität und Verbrechen*, published in 1963, played a crucial role in this process, bringing together Jews who had

returned to Germany with ex-Nazis. It challenged a new draft of the criminal code, the so-called "*Entwurf 1962*," which was profoundly conservative in maintaining the criminalization of adultery, male homosexuality, and abortion, and in constraining the marketing of birth control and products to prevent venereal disease. The draft also invoked the idea of "popular sentiment" [*das gesunde Volksempfinden*] as a legitimate reference point for legal rulings. *Sexualität und Verbrechen* vigorously challenged the criminalization of male homosexuality, advanced the legal ideals of consent and privacy, and invoked the Third Reich as a particularly pernicious example of what could happen when the law took its cue from "popular sentiment." Herzog pointed out that the debate about the criminal code foregrounded the lingering impact of Nazism on postwar culture in a complex way. On the one hand, the conservative draft of 1962 itself offered a key example of postwar sexual conservatism in its *double* nature as both a backlash against some elements of Nazism and a continuation of other elements. On the other hand, the energetic liberal and New Left reaction against the draft marked the moment that an utterly new (and ultimately enormously influential) interpretation of Nazism as thoroughly sexually repressive entered public discussion, an interpretation that drew its moral force not least from the return to public discussion of the details of the Holocaust as these were made public in the Auschwitz trials.

In her succinct commentary, Maria Höhn raised the question as to what extent the legal profession argued and acted in accordance with popular attitudes, and suggested looking more closely into how American arguments influenced debates in West Germany. Contributions to the animated discussion that followed called for a revised periodization of the 1950s and 1960s that clarifies when the change toward liberalization began as well as to what extent legal changes caused or merely reflected change in society at large. They also cautioned against overstating West German liberalization in the 1950s so as not to make it appear as an all-encompassing and unstoppable democratization. In sum, the papers, the commentary, and the discussion showed that the mix of Nazi and democratic elements in 1950s West Germany requires much closer scrutiny, for which the papers provided productive insights and questions.

Dirk Schumann