**Protecting Families, Dividing States:**

**The Struggle to Reform Family Law in East and West Germany, 1945–1976**

ByDr. Alexandria Ruble, 2017 Hunt Fellowship

My book project, tentatively titled *Protecting Families, Dividing States: The Struggle to Reform Family Law in East and West Germany, 1945–1976*, demonstrates that gender and the family were battlegrounds of the Cold War between the postwar Germanys. Specifically, I explore the interplay of political, social, and economic factors that led, despite all resistance, to the reform of family law in East and West Germany in the 1950s and 1960s. After Nazi Germany’s defeat in 1945, Germans inherited the Civil Code, a relic of the nineteenth century that designated women as second-class citizens in marital rights, parental rights, and marital property schemes. After much struggle, legislators in both states replaced the old law with two new, competing versions—the 1957 Equal Rights Act in the West and the 1965 Family Code in the East—that expanded women’s rights in marriage and the family. I argue that the complex relationship of the divided Germanys in the early Cold War alternately catalyzed and halted efforts to reshape legal understandings of gender and the family after World War II.

While my dissertation focused on the debates over family law in politics, society, and the media, my book adds a new layer of analysis: how family law affected everyday life in the postwar Germanys. The Dr. Richard M. Hunt Fellowship for the Study of German Politics, Society, and Culture enabled me to work toward this aspect of my book manuscript in the summer of 2018. My primary goal for the Hunt Fellowship was thus to retrieve documents that illuminate the issues of everyday life in partnerships and families in the 1940s through the 1960s. A secondary goal for the summer was to further my transatlantic ties to Germany. While in Germany on fellowships from the Fulbright US Student Program and the German Academic

Exchange Service (DAAD), I experienced Berlin’s vibrant academic culture in the colloquia at the Free University of Berlin (FU), the Humboldt University (HU), and the Center for Contemporary Historical Research in Potsdam (ZZF) when I was affiliated with Prof. Dr. Paul Nolte at the FU and Prof. Dr. Martin Sabrow at the HU/ZZF. In June 2017, I served as a fellow for two weeks at the Institute for Social Movements at the Ruhr University Bochum, where I was affiliated with Prof. Dr. Stefan Berger. I aimed to complete my research, deepen the relationships I created before, and make new connections at weekly colloquia while I was in Germany in the summer of 2018.

*Background and Historiography*

The legal status of the family has been contested in Germany since the late nineteenth century, when legislators passed the Civil Code, a law that designated women as second-class citizens in marital rights, parental rights, and marital property schemes. Social Democrats and the socialist and bourgeois women’s movements opposed the law from the beginning, arguing that it restricted women’s rights and enforced archaic gender roles. Meanwhile, conservatives fought to keep it intact, arguing that its provisions kept society stable in uncertain times. Throughout the upheavals of the early twentieth century—the collapse of the German Empire following World War I, the tumultuous Weimar Republic, and the violent Third Reich—the Civil Code remained on the books.

In the postwar period, in the context of the founding of the East and West German states and the rising Cold War, female activists in the FRG and GDR revived the idea of altering the longstanding Civil Code. They began petitioning their respective governments to make family law more equitable for women. At the same time, conservative parties, Christian family and women’s associations, and the Protestant and Catholic Churches countered with petitions of their own, arguing in favor of a more paternal law in line with Christian views of traditional gender roles in the family. In both states, politicians carefully navigated around the different conservative and progressive factions in politics and society, often resulting in political stalemates. The consequences of these negotiations were especially remarkable in the East, where citizens’ cultural conservatism was strong enough to halt the Communist dictatorship from pushing through its reforms in the early 1950s. After much struggle, legislators in both states finally replaced the old law with two new, competing versions: the 1957 Equal Rights Act in West Germany and the 1965 Family Code in East Germany. Both laws purported to expand women’s rights in marriage and the family.

Historians have seldom compared the situation of women and gender in East and West Germany in-depth, with a few recent exceptions that show how policies in both states attempted to alleviate the double burden of work and household labor for women, but still reinforced a gendered division of labor.1 My book confirms and adds to this scholarship by finding that civil law, which defined the rights of men and women in marriage and the family, became an important “Cold War weapon,” central to discourses and political practices in the East and West after 1945.2 My project not only compares the situation of gender, women’s rights, and the family in both states, but pairs political scientist Paul Pierson’s concept of “path dependency” with historians Bénédicte Zimmermann and Michael Werner’s work on *histoire croisée*, or the “history of entanglements,” to conceptualize how family law represented a complicated link between the divided Germanys during the first two decades of the Cold War.3

*Research*

In prior research trips to Germany, I located petitions, court records, memoirs, and readers’ letters to women’s magazines such as *Constanze, Brigitte, and Für Dich* in federal and state archives and libraries in Berlin, Speyer, Düsseldorf, and Koblenz, Germany. My goal this past summer was to relocate these collections, access these documents, and begin to align them with each other in order to get at the fundamental problems of marriage and family in everyday life for East and West Germans. I am especially interested in comparing and contrasting East and West German experiences. My current hypothesis is that while the laws changed, everyday life initially did not alter significantly.

In federal and state archives in Berlin and Koblenz, Germany, I located readers’ letters to the women’s magazines *Constanze, Brigitte,* and *Für Dich*. In addition, these magazines feature articles that explicate the everyday life of East and West Germans. In my larger project, I intend to incorporate these sources in two ways. First, I plan to include sections of each chapter that examine how these magazines utilized the subject of everyday life, especially in marital and familial relations, for a broad readership. This will differ from East to West, namely because of the differences in the amount of control the East and West German governments had over the media. In the East, the state-controlled media depicted everyday life in East Germany as idyllic, thanks to their egalitarian laws and policies, whereas Western media outlets used everyday life to highlight criticisms of the current laws. Even within the Western media, however, there are vast differences, depending on the political leanings of the editorial staff. Second, I am exploring the usage of readers’ letters in these magazines. On the one hand, readers’ letters provide insight into readers’ concerns. On the other hand, these letters were mediated and the editors chose particular letters to highlight. Part of my study will be to examine and identify what the editors aimed to accomplish by publishing certain letters.

In federal and state archives and libraries in Berlin and Düsseldorf, Germany, I located court records. Of particular interest are not just the court records, but how the cases were portrayed in numerous legal journals in East and West Germany (such as the *Deutsche Rechts-Zeitschrift* and *Neue Justiz*). Often, jurists of different backgrounds used these journals to discuss particular legal principles undergirding marriage, divorce, and family law. Interestingly, lawyers on both sides of the German-German border would reference cases on the other side, at least in the years prior to 1957. I plan to align these articles with records from courts in order to see what issues became most prominent and what legal principles may have guided the leading judges on each case.

Third, I was able to use the Kempowski collection at the Archiv der Akademie der Künste, located in Berlin. In particular, I chose the Kempowski collection because it houses hundreds of autobiographical texts and memoirs. While selecting the texts proved challenging—the archival database does not easily identify terms such as “marriage” or “family”—I was able to find about 20 texts that were representative. In particular, I homed in on texts written by men and women of a particular generation, namely those who would have been born in the 1920s or 1930s and reached adulthood in the 1940s and 1950s. As one example, an autobiographical text from a Frau H. described an initially happy marriage that gave way to feelings of isolation and alienation for her as a lonely housewife. The marriage later succumbed to stress from frequent moves and extramarital affairs.4 Similarly, a Frau K. described how her marriage fell apart due to her husband’s extramarital affairs. Initially, she tried to forgive him and keep the marriage together for the sake of their children. She also described how, when she attempted to get legal help, a local attorney blamed her for the problems.5 I am currently lining up these texts with other sources listed above and below in order to ascertain if the stories told were typical. I am also searching for more autobiographical texts written by men. In most cases, male authors barely mentioned marriage and weddings as life events, or only reported that they were happy in their marriages. This retelling of their lives contrasts significantly from those written by women, so this aspect of the book project must be interrogated more.

A fourth source base that I was able to return to over the summer were petitions written to the East and West German governments by average citizens. In West Germany, the Federal Ministry of Justice solicited letters from citizens, proclaiming to serve as a receptacle for a free and open society, in contrast to the East German government next door. Most of these petitions arrived between 1950 and 1953, during the first phase of discussing the drafted legislation of the West German Equal Rights Act. A central issue for men and women was the definition of equality in marriage and divorce law. According to Herr M., for instance, the amount of alimony he paid was unfair. He asked the Federal Minister of Justice how it could be “that a woman never never must rise up for her own support?”6 Meanwhile, women wrote in with similar complaints about unequal treatment in their marriages. In October 1951, for instance, Frau W. from Frankfurt am Main wrote that her husband of 28 years had been “tormenting her mercilessly” because she refused to hand over her half of their property in a divorce.7 She would consent to the divorce if she had the chance to divide the house and property.8 For her, divorce reform was welcome if it allowed her to keep her property. The Federal Ministry of Justice rarely specifically addressed these concerns, but rather acknowledged their complaints and promised that reforms were underway.

Remarkably, the East German Ministry of Justice similarly claimed to serve as a sounding board for citizens. To propagate the forthcoming legislation and monitor citizens’ feedback, the East German Ministry of Justice set up a formal petition system in February 1953.9 Furthermore, occasionally, Socialist Unity Party (SED) officials held public forums, where they presented information on forthcoming laws and allowed citizens, in a very limited fashion, to respond to

the party’s initiatives. The forums and the petition system were meant to give the appearance of democracy and boost the SED’s reputation both at home and abroad. In addition, the SED could use these spaces to gauge their citizens’ responses and adjust accordingly. On the other side, according to historian Felix Mühlberg, average East Germans saw their petitions as “an

instrument for solving conflicts,” which in this case stemmed largely from differing conceptions of marriage and the family.10 As one example, a Thuringian couple inquired about a proposal to divide marital property evenly in the case of divorce. Their assets were invested primarily in livestock, extracted from both spouses’ money but primarily the husband’s livelihood. To make it more difficult, the animals had reproduced.11 In other cases, East Germans wrote to complain about changes the SED regime proposed. For instance, some challenged the notion that out-of- wedlock children should have equal status in society, arguing that their presence would impede legal inheritance and complicated local town life.12

Finally, an unanticipated, but fruitful, source base that I discovered this summer were sociological surveys taken between the late 1940s and the mid-1980s. Intellectual historians have traditionally focused on major intellectuals and sociologists of the postwar period, such as Helmut Schelsky and Gerhard Mackenroth, who both argued that the end of the war had created fundamental changes in gender and the family in postwar Germany. Indeed, according to Schelsky and Mackenroth, social insurance plans and other laws had to be constructed with the traditional family’s stability and reconstruction in mind.13

While Schelsky and Mackenroth’s studies are more theoretical or philosophical in nature, other sociologists at the time conducted more empirical studies, typically based on interviews and surveys. One of the best known, and earliest from the postwar period, was Hilde Thurnwald’s 1947 study of 498 Berlin families. Other historians such as Robert G. Moeller have examined this study, reflecting on how Thurnwald described the daily lives of women struggling to survive in Berlin after World War II and using the anecdotes to supplement their arguments. I also located this particular study over the summer, partly to reexamine Thurnwald’s stories and methods for myself, and partly because I plan to contextualize her study as the first in a long series of postwar sociological studies. In that sense, I am interested in exploring how her study served as a foundational text for other sociological studies of the family in the 1950s through the 1980s.

In addition to examining Thurnwald’s study, I found several other sociological studies in the Berlin Staatsbibliothek. Another study of interest, which has largely escaped the attention of historians, is Gerhard Wurzbacher’s 1958 study *Leitbilder gegenwärtigen deutschen Familienlebens*. What captured my attention about Wurzbacher’s study is his attention to the ways that children described their parents’ relationships and their own relationships to their parents. He created what he called “family monographs,” or general pictures of what family life looked like for several German families. These “monographs” include descriptions of family history, class status, employment background, family structure, and other important information. A large portion of family law dealt with defining partners’ relations to each other (namely through unequal relation) and defining parental rights over their children. It is therefore pertinent to my own study to use surveys such as Wurzbacher’s to get at issues such as how ordinary Germans viewed the roles of these types of relationships and how their children viewed them. It is telling, for instance, that one interviewee stated, “A German father doesn’t concern himself with the question of whether he loves his children. He prefers reverence.”14 Similarly, another interviewee stated, “Family life revolves around the authority of the father.”15 What other studies hitherto this point had been missing was critical insight into the role of paternal authority. I am interested in using Wurzbacher’s study and similar surveys produced around the same time to round out this aspect of everyday life.

Another source of interest that fall in this category are governmental surveys (namely taken by the Federal Ministry of Family Matters in West Germany) conducted in the 1960s. Here, the West German government in particular tried to track the major problems facing German families in the 1960s, in an effort to craft social insurance programs to response to these particular issues emerging twenty years after the end of World War II.

In the 1970s and 1980s, there was a boom of sociological texts and oral interviews devoted to the task of documenting women’s experiences right after the war. For example, in 1984, German academics Sibylle Meyer and Eva Schulze published *Wie wir das alles geschafft haben: Alleinstehende Frauen berichten über ihr Leben nach 1945*, a collection of interviews with 8 different German women who had survived the postwar hunger years. Other historians, such as Elizabeth D. Heineman, have featured this particular study in their books, mostly to feature anecdotes to support other archival work. For my own study, I am interested in putting this work into conversation with other similar texts. As mentioned above, the early 1980s were a time when these types of studies boomed, yet other historians have not fully explored this landscape of sources. This summer, I located series of similar sources that ask very different sets of questions. Historians thus far have not delved extensively into these sources. For instance, a source of particular interest was Gisela Dischner’s 1982 collection *Eine stumme Generation berichtet: Frauen der dreißiger und vierziger Jahre*, which includes both transcripts of representative interviews as well as printed questionnaires and explanations of how she tracked patterns in the interviews and interpreted the data.

Vast majorities of these studies were conducted in West Germany or in Berlin, but there were also some conducted in East Germany, especially in the 1970s as sociology took off as a discipline in the German Democratic Republic. Prior to this point, East German academia had been largely ossified with the goal of promoting the party-ideological agenda of the Socialist Unity Party. Erich Honecker’s rule marked the beginning of the “welfare dictatorship” (to borrow Konrad H. Jarausch’s term), and with it, the Socialist Unity Party became more interested in tracking changes in its population. Furthermore, the SED became more invested in keeping up with intellectual trends in the West, which included extending the field of sociology. Right after the fall of the Berlin Wall in 1990, the interest in the everyday life of East German women continued. One study I found and intend to use in my book project comes from Sibylle Meyer and Eva Schulze, who published *Familie im Umbruch: Zur Lage der Familien in der ehemaligen DDR* in 1992. Although published after the fall of the Wall, the interviews conducted by Meyer and Schulze get at critical issues at the heart of everyday life in the former GDR. For instance, one of the issues they address is the structure of family life. In some cases, such as Frau J., men willingly stayed home while their wives worked and built up their careers.16 In others, such as Frau F.’s case, her husband was active in the party and did not involve himself much with domestic matters, leaving that burden primarily on her.17 Both of these women were born in the 1930s and were therefore close to the age of majority by the mid-1950s. In other words, they were not socialized under the SED regime in the GDR and experienced a different set of gendered behaviors growing up. I plan to compare and contrast some of the other interviews in the study, which were conducted with the later generation and reveal very different standards.

Herr Q., for instance, born in 1970, declared that it was perfectly normal for him to pick his child up from daycare and then do a bit of grocery shopping.18 The sentiments of the earlier generation—that paternal authority ruled the household and there were clearly designated gender roles—had seemingly begun to evaporate by the 1970s and 1980s in the GDR.

*Transatlantic Ties*

Finally, I enjoyed furthering my transatlantic ties while in Germany. While based on Berlin, I was able to participate in a variety of weekly colloquia, which proved to be wonderful networking opportunities. For example, on June 18, 2018, I had the pleasure of attending the 2018 German Studies Association (GSA) Distinguished Lecture, given by H. Glenn Penny of the University of Iowa, titled “Kihawahine: German Ethnology and its Histories of the World : German Ethnology and its Histories of the World.” This talk, hosted by the Berlin Program for Advanced German and European Studies at the Freie Universität, expounded upon the original exhibitions at the Berlin Ethnological Museum, a display of Hawai’ian artifacts collected by a German dermatologist in the 1880s. This lecture provided an opportunity to meet and discuss with German and American academics.

In addition, I also had the opportunity to attend the annual Berlin Program workshop, held between June 27 and 29, 2018. This year’s workshop had the theme “Strange Bedfellows/Unexpected Allies,” which offered several interesting papers on unexpected, yet fruitful alliances in modern German history. In addition to networking with American, German, and English academics studying Germany, the workshop provided several opportunities to reflect on the “strange bedfellows” present in my own book project.

*Conclusion*

With the generous support of the American Council on Germany’s Hunt Fellowship, I was able to explore archival and library collections in Germany that will round out a critical portion of my book project: marriage and the family in everyday life. In addition to conducting this research, I was able to spend evenings editing each chapter of my manuscript. The research conducted with the Hunt Fellowship will serve as a new final chapter for my book manuscript. By placing this chapter last, I will be able to highlight changing patterns in everyday life over time from 1945 to the 1970s. Based on my preliminary findings thus far, I will be able to argue that the law had staggering effects for West and East Germans. Memoirs, petitions, and sociological surveys indicate that the 1900 law had firmly cemented paternal authority in partnerships and families. In the 1940s and 1950s, German men often distanced themselves from their children and proclaimed their legal authority over their wives. These patterns persisted even after the 1957 law was passed in West Germany. In the East German case, similar patterns of behavior were evident in the 1940s and 1950s, although they changed more rapidly with a younger generation that came of age in the 1960s. These patterns of behavior in both Germanys became a focal point of the media and attracted academics’ attention. Additionally, the Hunt Fellowship gave me an opportunity to establish lasting connections to German and American academia. I am confident that the amazing support of the American Council on Germany played a pivotal role in the development of this book manuscript and my professional contacts, and I am grateful to have had the opportunity to represent the ACG abroad.

1 Carola Sachse, *Der Hausarbeitstag: Gerechtigkeit und Gleichberechtigung in Ost und West, 1939-1994* (Göttingen: Wallstein, 2002); Karen Hagemann, “A West-German ‘*Sonderweg*’? Family, Work, and the Half-Day Time Policy of Childcare and Schooling,” in *Children, Families, and States: Time Policies of Childcare, Preschool, and Primary Education in Europe*, eds. Cristina Allemann-Ghionda, Karen Hagemann, and Konrad H. Jarausch (New York: Berghahn, 2011): 275-300; Monika Mattes, “Economy and Politics: The Time Policy of the East German Childcare and Primary School System,” in *Children, Families, and States: Time Policies of Childcare, Preschool, and Primary Education in Europe*, eds. Cristina Allemann-Ghionda, Karen Hagemann, and Konrad H. Jarausch (New York: Berghahn, 2011): 344-363; Leonie Treber’s study *Mythos Trümmerfrauen: von der Trümmerbeseitigung in der Kriegs- und Nachkriegszeit und der Entstehung eines Deutschen Erinnerungsortes* (Essen: Klartext, 2014), although not on policy, nevertheless provides an interesting comparison of gender and memory in the two postwar states. See also Gunilla-Friederike Budde, *Frauen Arbeiten: Weibliche Erwerbstätigkeit in Ost- und Westdeutschland nach 1945* (Göttingen: Vandenhoeck & Ruprecht, 1997), an edited volume that compares women in the labor force in both Germanys.

2 Uta Poiger, *Jazz, Rock, and Rebels: Cold War Politics and American Culture in a Divided Germany* (Berkeley: University of California Press, 2000), 7.

3 Paul Pierson, “Increasing Returns, Path Dependence, and the Study of Politics,” *The American Political Science Review* 94, no. 2 (2000): 251–67; Michael Werner and Bénédicte Zimmermann, “Vergleich, Transfer, Verflechtung. Der Ansatz der Histoire Croisée und die Herausforderung des Transnationalen,” *Geschichte und Gesellschaft* 28, no. 4 (October 1, 2002): 607–36; Heinz-Gerhard Haupt and Jürgen Kocka, “Comparative History: Methods, Aims, Problems,” in *Comparison and History: Europe in Cross-National Perspective*, eds. Deborah Cohen and Maura O’Connor (Routledge, 2004), 33.

4 “Barbara H.,” Kempowski-Biografien 6492, Archiv der Akademie der Künste.

5 “Gerda K.” Kempowski-Biografien 2373, Archiv der Akademie der Künste.

6 Rektor Chr. Müller an Dehler, B141/2020/10, BArch Koblenz.

7 Wieland an Dehler, October 17, 1951, B141/2019, Bl. 26, BArch Koblenz.

8 Rottorf, B141/2019, Bl. 34-36, BArch Koblenz.

9 Judd Stitziel, “Shopping, Sewing, Networking, Complaining: Consumer Culture and the Relationship between State and Society in the GDR,” in *Socialist Modern: East German Everyday Cultures and Politics*, eds. Katherine Pence and Paul Betts (Ann Arbor: University of Michigan Press, 2008), 265; Jonathan R. Zatlin, “Ausgaben und Eingaben. Das Petitionsrecht und der Untergang der DDR,” *Zeitschrift für Geschichtswissenschaft* 45 (1997): 90217; Ina Merkel and Felix Mühlberg, “Eingaben und Öffentlichkeit,” in *»Wir sind doch nicht die Mecker-Ecke der Nation«: Briefe an das DDR-Fernsehen*, eds. Ina Merkel (Köln: Bohlau, 1998), 13.

10 Felix Mühlberg, *Bürger, Bitten und Behörden: Geschichte der Eingabe in der DDR* (Berlin: Karl Dietz Verlag, 2004), 9.

11 Strobel an das Kreisgericht Zeulenroda, July 30, 1954, DP 1/23655 (2), Bl. 31, BArch Berlin.

12 Fröhlich an das Ministerium der Justiz, August 19, 1954, DP 1/23655, Bl. 12, BArch Berlin; Ostmann an Fröhlich, Oktober 1, 1954, DP 1/23655, Bl. 13, BArch Berlin; Müller an das Ministerium der Justiz, August 16, 1954, DP 1/23655, Bl. 14, BArch Berlin.

13 Robert G. Moeller, *Protecting Motherhood*: *Women and the Family in the Politics of Postwar West Germany*

(Berkeley: University of California Press, 1993), 120-121.

14 Gerhard Wurzbacher, *Leitbilder gegenwärtigen deutschen Familienlebens* (Stuttgart: Ferdinand Enke Verlag, 1958), 25.

15 Wurzbacher, *Leitbilder gegenwärtigen deutschen Familienlebens,* 25.16 Sibylle Meyer and Eva Schulze, *Familie im Umbruch*: *Zur Lage der Familien in der ehemaligen DDR* (Stuttgart: Verlag W. Kohlhammer, 1992), 59.

17 Meyer and Schulze, *Familie im Umbruch*, 59.

18 Meyer and Schulze, *Familie im Umbruch*, 60.