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Die Frauen, Der Strafvollzug, und Der Staat: Incarceration and Ideology in Post-WWII Germany

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DIE FRAUEN, DER STRAFVOLLZUG, UND DER STAAT: INCARCERATION AND IDEOLOGY IN POST-WWII GERMANY

by

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Introduction

"A criminal justice system is a mirror in which a whole society can see the darker outlines of its face. Our ideas of justice and evil take on visible form in it, and thus we see ourselves in deep relief" (Reiman 2003, 1).

The concept of incarceration in Germany is likely to conjure up horrific images of the Holocaust, or of secret Stasi prisons in East Germany. Today, an Internet image search of German prisons produces a curious mixture of cozy dorm room-like cells and barbaric concentration camps. The latter, of course, is a solemn reminder of Germany's gruesome past. The former, however, shows a reality that many Americans are perhaps more unprepared for: that of a prison that is minimally punitive and that allows its inhabitants to retain some semblance of a life outside of prison. Americans' comments on these pictures, part of a photo series by artist Jürgen Chill, show consistent outrage: that such cells reveal an unthinkable softness on crime, and that this "softness" somehow flies in the face of justice ("German Prison Cells" 2009).

After years of being continually appalled by the heinous hardness of U.S. prisons, I found these images, which show a level of humanity within the prison space, to be both refreshing and comforting. Having developed a set of criticisms and opinions about prisons and incarceration that rely heavily on relational and non-punitive policies and practices, I was impressed by the German system, which allows for day-leaves, for mothers to continue to care for their children, and for abbreviated sentences, and which emphasizes reintegration into society after release. Furthermore, German incarceration rates are much lower than those in the United States. The percentage of the German population that is incarcerated is one-eighth of that in the U.S., and the percentage of

women who are incarcerated is even smaller (Jones et al. 2011).

Additionally, Germany, with its puzzling mix of hard-working self-sufficiency and communalistic values, has always fascinated me. The notion of Germans as a serious people, committed to their work, and intolerant of laziness or inefficiency, is not wholly inaccurate, yet they support and have created a net of social welfare programs better than what can be found in most of the western, capitalist world. Since the end of World War II, Germany has had to rebuild from a state of almost complete destruction, and it has done so with amazing resolve and success. Today, it is the largest economy in Europe and the fifth largest in the world (CIA 2012). Yet Germany's social welfare market makes it a far more socialist nation than most other capitalist countries throughout the world. Even before Unification, West Germany's interpretation of capitalism was much different than that of many liberal capitalist states throughout the world. From an American perspective, East and West Germany prior to Unification were perhaps more similar than they were different, yet within Germany, this divide was quite stark.

The extent to which East and West Germany represented their respective economic theories can be seen in their differing ideologies of incarceration, with East German prisons relying primarily on a socialist or Marxist model, and West German prisons more closely echoing capitalist views of punishment. In the years since Unification, the merger of these two systems has mirrored the continual process of unifying these two states. Socialist and capitalist influences can both be seen in the criminal legal institutions of Germany, revealing the extent to which these influences determine the social, political, and economic climate of contemporary Germany.

Furthermore, the specificities of women's prisons reveal constructions of gender, femininity, and womanhood in each state; the differences and developments in these constructions have been reproduced in the prison space through policies and programs directed towards incarcerated women.

This unique recent history of Germany makes it an excellent case study through which to view the relationship between a country and its women's prisons. The artificiality and relative brevity of Germany's East-West divide made it an experiment in the power of political and economic systems to create widely differing criminal legal institutions; these institutions thus provide an extraordinary window into gender, crime, and punishment in post-WWII Germany.

I. Theoretical Framework

a. The Prison as a Product of its Historical, Political, Economic and Social Context:

Clearly, the German prison system is much more than a reactionary institution that has simply adapted itself to current criminal trends in the country. It is a unique system that has been influenced by both capitalism and communism, and has, at times, struggled to find a balance of these two influences in order to most appropriately reflect the needs of women inside and outside of the prison space. In trying to understand German women's prisons in the context of Germany's unique history, it is relevant to study the techniques and theories that scholars and critics of the United States' prison have developed in order to trace prisons from their historical roots.

Many such scholars and critics of the U.S. prison system have traced its historical

intersection with the institution of slavery (Franklin 1998, Davis 2003). They argue that the current U.S. prison system is no accident, nor is it a natural reaction to criminal behavior in the U.S. Rather, it is a racialized institution shaped by other racialized American institutions—namely, slavery and subsequent convict lease and Jim Crow laws. Both Angela Davis and Bruce Franklin point out a devastating loophole in the progress narrative of American freedom: that while the thirteenth amendment to the U.S. Constitution supposedly banned slavery, its particular wording wrote slavery *into* the Constitution "as a punishment for crime" (Franklin 1998, 17). This enabled the modern American prison-industrial complex to become the monstrosity that it is today.

Yet even within the United States, prisons have developed differently based on regional variances. Franklin, in his introduction to *Prison Writing in the 20th Century*, explains how cotton slavery plantations in the South became cotton prison plantations, while prisons in the North—on a smaller scale—were often used for political prisoners and labor union organizers (Franklin 1998, 20). These regional differences show how even within one supposedly united country, social, political, and economic variances can cause marked differences in the development of the prison systems in neighboring regions or states.

My intervention throughout this project is to better understand German women's prisons by placing them in the context of Germany's social, political, and economic developments since the end of World War II. I argue that the German prison system is particularly notable because of its recent history of division and Unification, throughout which it was influenced by some mix of capitalist and communist ideology. When the

horrific atrocity that was WWII finally came to a close in 1945, Germany had seen a near-complete destruction of its political, economic, and even cultural structures. The rebuilding of these structures—in particular, the prison system—was a unique opportunity for Germany to generate new ideologies surrounding crime and incarceration, and to implemented new practices which reflected these ideologies. Prisons played a significant role in the newly created Federal Republic of Germany (FRG) in the West and German Democratic Republic (GDR) in the East, and the development of these institutions paralleled, in many ways, the developments of West and East Germany—and of the Unified Germany in the past two decades. In this way, prisons in Germany today are a product of a very short history. This is one reason why such a study is particularly useful—its scope is manageable and traceable, and its development quite dramatic. Most importantly, a study of Germany's prison system reveals the complex relationship between capitalism, communism, incarceration, and gender.

The divergent paths of East and West Germany in the four decades following the Second World War provide a fascinating case study in how two separate prison systems can develop between two countries with a common language and culture and shared history, which were divided for forty years, then expected quite suddenly to seamlessly unify. Much like Franklin's discussion of regional discrepancies within the U.S. prison system, this study analyzes the differences in incarceration policies and practices in East and West Germany within the context of the dissimilar legacies of capitalism and communism. Showing the influences of this divided history on Germany's contemporary prison system, I argue that the extent to which Germany has become successfully unified

is reflected in this complex, yet generally efficacious blend of ideologies in its prison system. Probing this connection between economic, political, and social institutions, my study provides a history of German women's prisons in the country's divided, unifying, and Unified eras. This project continuously demonstrates how German women's prisons in East and West have developed through a series of social, economic, and political changes occurring in each of the two states, changes that have influenced national attitudes about incarceration as well as notions of femininity and womanhood.

I have chosen to focus my project specifically on women's prisons because I believe incarcerated women in Germany and throughout the world to be a particularly underserved population. “Like the societies that create them, (prisons) are largely designed for and dominated by men,” making women an even further marginalized group within the incarcerated population of both the U.S. and Germany (Colvin 2011, 10). Just as prisons can tell us much about a country's social, political, and economic values, women's prisons in particular often reveal social constructions of gender by providing incongruences within the system; the oppression of women outside the prison space is indicative of masculinist systems and values in society at large, but this oppression is further intensified inside the prison.

Angela Davis[1] writes that

> Since the end of the eighteenth century, when imprisonment began to emerge as the dominant form of

[1] Davis' work is of particular interest, considering that she received her Bachelor's degree from the West German University of Frankfurt in the mid 1960s and later her Ph.D. from the Humboldt University in East Berlin in the late 1960s. Identifying as a socialist and a communist, her writing about the criminal legal system focuses primarily on the American prison industrial complex, leaving us to wonder to what extent her thinking and the formation of her activism was informed by her time spent in the divided Germanys.

> punishment, convicted women have been represented as essentially different from their male counterparts. It is true that men who commit the kinds of transgressions that are regarded as punishable by the state are labeled as social deviants. Nevertheless, masculine criminality has always been deemed more 'normal' than feminine criminality. There has always been a tendency to regard those women who have been publicly punished by the state for their misbehaviors as significantly more aberrant and far more threatening to society than their numerous male counterparts. (Davis 2003, 65-6)

Davis also describes how women's prison reformists in England and the United States in the nineteenth century focused on the prison becoming a space that would (and should) reinforce women's traditional domestic roles by recreating a household situation in which incarcerated women would learn cooking, cleaning, childrearing, and similar female-assigned tasks in preparation for reintegration into society as proper female subjects. In addition to perpetuating problematic gender norms, this model presumed a certain class and race of its subjects, and did not account for the ways in which this particular form of citizen-subject training was only possible for a certain race and class of women (Davis 2003, 70-1). Often, the vision of a rehabilitative or resocializing prison is that of one that prepares its subjects to conform to the outside society's race, class, and gender roles and expectations upon release.

Furthermore, it is imperative to study incarcerated women because of their status as a small minority in German prisons—making them significantly less recognized, studied, attended to, and accommodated. This work hopes to add to the small but dedicated current and historic study of these women in order to draw attention to their unique needs and experiences.

b. Theories of Morality and Punishment

In addition to the aforementioned works by Franklin and Davis, a number of other theoretical frames have shaped my conception of incarceration and informed the rest of this project. In order to analyze the various phases of the criminal justice system in Germany, it is useful to begin with some key theoretical standpoints from which to approach issues of crime, incarceration, gender, and morality. Recurring themes throughout this project are those of retribution, resocialization, and rehabilitation; the presence or absence of a care-based moral framework; the connection between the economic and social order of a society and its approach to crime; and general, as well as gender-specific, human rights, as defined the United Nations in the 1950s.

This study begins by questioning the driving forces behind crime and criminal justice systems. Throughout these three chapters, I explore themes of resocialization, rehabilitation, punishment, and deviance. In all cases, I favor a resocializing and rehabilitating approach to incarceration, rather than one that penalizes and punishes its subjects. This is very much tied to my belief that crime and deviance are socially constructed and defined, and that individuals who commit punishable crimes— particularly in a capitalist system— are generally those who have been already marginalized, oppressed, and underserved. Thus, when I advocate for or praise certain practices or policies, they tend to be those that promote healing rather than continued suffering. An appropriate "equivalent to the treatment of a disease is the rehabilitation of an offender, and it is a rehabilitative system, not a punishment system, that we ought to

have if we are to respond, even to criminals, in anything like a decent, morally defensible fashion" (Wasserstrom 1998, 57). In this sense, the primary goal is to restore the health and functionality of the individual in a way that will most benefit society. It is therefore difficult to envision some sort of rehabilitation that does not center around resocialization; in other words, the ideal rehabilitated citizen is determined by the values of the society in which she has been incarcerated. For this reason, rehabilitation and resocialization take very different forms in Germany throughout time and region.

Additionally, I generally advocate for and seek out evidence of a care-based moral framework in criminal legal systems, preferring practices and policies that promote and support rather than hinder the social and familial relationships of incarcerated women. Gilligan's empirical exploration of care-based versus justice-based moral reasoning is a very useful tool in bringing about a specifically gendered analysis of laws, policies, and practices surrounding criminality and incarceration. Gilligan explains how

> with the shift in perspective from justice to care, the organizing dimension of relationship changes from inequality/equality to attachment/detachment, reorganizing thoughts, feelings, and language so that words connoting relationship like "dependence" or "responsibility" or even moral terms such as "fairness" and "care" take on different meanings. To organize relationships in terms of attachment rather than in terms of equality changes the way human connection is imagined, so that the images or metaphors of relationship shift from hierarchy or balance to network or web. (Gilligan 1987, 34)

Thus, within this framework, programs that allow mothers to care for their children throughout their incarceration, or that allow or even encourage women to remain connected to their support systems outside of the prison, are the most desirable within

this frame of thinking and acting.

My inclination towards using Carol Gilligan's theories of a care-based moral framework to gain additional insight into this project is further legitimized by the regular occurrence of references to her in a large number of both primary and secondary texts that I have examined. Her ideas seem to have struck a particular chord in the German feminist consciousness—both in East and West. Perhaps this has something to do with the relative, though obviously differing, fondness for socialism and social welfare in both East and West German feminism. An ethics of care and holistic morality that values relational decision-making is quite relevant in the context of the socialist feminist ideals, though even the socialist East German state's style of paternalistic governance was far from aligned with Gilligan's approach.

An understanding of the connections between economic systems and prisons is also vital in order to understand the different reasons for and methods of incarceration throughout the last sixty years in Germany. The very fact that the criminal legal systems were fundamentally different in East and West Germany indicates the role of economic ideology in constructing prisons. Marxist and socialist criminal and prison ideology stands in contrast to western, capitalist ways of conceptualizing these cultural phenomena. In the latter system, “criminal justice plays an ideological role in support of capitalism because people do not recognize that the principles governing criminal justice are reflections of capitalism. The principles of criminal justice appear instead to be the result of pure reason, and thus a system that supports capitalism is (mistakenly) seen as an expression of rationality itself” (Reiman 2003, 203). Rationality, as a supposed

component of independent, individualistic moral reasoning, seems to be highly valued in capitalist democracies, so it is no surprise that its influence would be extended to the prison system.

In contrast to this emphasis on rationality and individualism is a valuation of relationality, a dichotomy explored by Gilligan. Relationality sees humans as innately interdependent, and considers social and familial relationships to be central to humanity. Marxist and socialist ideologies concerning crime seem to favor such interdependence, though in reality, this promotion of relationality may not always be fully reflected in communist prison systems. These ideologies see such deviant behavior as inherently at odds with a socialist system; crime is thus dealt with not as a natural or inevitable element of society, but as a residual effect of capitalism that, through reeducation and resocialization as a proper socialist citizen, will eventually become obsolete (Reiman 2003, 204). The role of prisons in a communist state, one might argue, would be theoretically impermanent, and would therefore operate under a very different framework than those in a capitalist system, in which prisons would always be necessary to serve as warehouses for the poorest and most underserved and disadvantaged by society.

Finally, I consider various standards of human rights within prisons in order to lay a basic foundation for how individuals should be treated within prisons. This study repeatedly examines how these standards have been broken or upheld. It is important to note that these standards are also subject to the values of the governing body that created them; still, it is contextually useful to include the United Nations' guidelines in order to assess the human rights failures and successes within German prisons from the 1950s

until today.

Developed and implemented in 1955, the UN Standard Minimum Rules for the Treatment of Prisoners provides an insight into what were commonly held to be appropriate and "humane" guidelines for the treatment of incarcerated persons. Additionally, this set of rules, which were not enforced, and clearly not always followed, go beyond the work of a theoretical framework, in that they were, in theory, universal guidelines for incarceration practices during the time of division in Germany, and continued to be regarded as standards of human rights within prisons today. Examples of these guidelines include stipulations that men and women be housed in separate institutions; that no male staff members enter a women's prison unless a female officer is present; that separation from the outside world is in and of itself a punishment, and should be mitigated whenever possible; that "the regime of the institution should seek to minimize any differences between prison life and life at liberty that tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings;" and that reintegration should be a primary goal of incarceration (United Nations 1995). These standards are hardly radical, yet their implementation has proven to be elusive in many prison systems throughout the world. The issue of human rights is central to an analysis of prisons—in Germany and beyond, and the treatment of incarcerated people is therefore central to the humanity and democracy of any state.

II. Structure and Organization

This thesis consists of three chapters, structured chronologically:

The first chapter, “Divided Germany, Divergent Ideologies, 1945-1989,” describes the differences in ideologies and practices of crime and incarceration in the divided Germany after the end of the Second World War. East Germany, a communist system, demonstrated a much different criminal justice and prison system than West Germany, its capitalist neighbor. This first chapter also carefully examines differences in women's idealized and actual roles in and relationships to the state in the two divided Germanys, and argues that these differences contribute to many of the differences seen in the incarceration of women in East and West Germany. The discrepancies between incarceration practices and policies in the GDR and FRG can be accounted for only through an analysis of ideologies of crime and punishment as well as of ideologies of gender and womanhood. While resocialization and rehabilitation practices in the two countries served to reshape 'deviant' women into proper models of citizenship and womanhood in a communist and capitalist state, respectively, these models did not fully account for many of the realities of women's lives outside of prison.

The second chapter, “De-centralization of Power and its Discontents in the New Capitalist State, 1989-1995,” explores changes in the prison systems during the years surrounding Germany Unification, focusing on the impact of the supposed decentralization and democratization of power in the East German states on women and incarcerated people. Owing to the general dearth of information regarding changes made specifically to women's prisons in Germany throughout this historical moment, the task of this chapter is to bridge the gap between the pre-Unification years and the contemporary state of Germany's women's prisons. To this end, the chapter provides a

thorough exploration of the developments in women's involvement in political and social movements, as well as of their shifting roles in the newly expanded capitalist Germany. Additionally, it looks at the reforms and changes to the prisons in both East and West Germany during these years, reforms that were neither uniformly implemented nor consistently beneficial. The tracking of these changes for women and for incarcerated people, whom I argue throughout this chapter to be the most disenfranchised and disadvantaged by Unification, illuminates the ways in which their altered positionality within the German economic, social, and political State leads to the current state of women's incarceration in Germany.

The third chapter, “Gender, Criminality, and Social Welfare in Contemporary Germany, 1995-2012,” brings this project up to the contemporary moment, exposing the current state of women's prisons, incarceration, and penal ideology in Germany, and connecting these trends with the political, economic, and social climate in the country today. Germany is now arguably the strongest economy in the European Union, propping up the failing economies of many of its fellow EU states, and is in many ways a great success story in its dramatic recovery in the sixty seven years since the end of WWII. But, as I argue in this chapter, it is important to look at the plight of incarcerated women, as an underprivileged group within the country, in order to understand the remaining weaknesses of such a state, and to see how the efforts that the state is making to better serve this population are indicative of its strength as a democratic nation. This chapter also explores the extent to which incarceration ideology now reflects the country's socially, politically, and economically divided past: do we still see hints of communist or

socialist thinking in criminal legal policies and practices? And finally, do the primary goals of incarceration in Germany—resocialization and rehabilitation—perhaps raises the question: is any form of punitive incarceration still relevant?

The conclusion of this study presents some final observations about the connections between Germany's post-WWII history and its prisons, and asks what the future of incarceration in Germany will be, given the current trends in the country's social, political, and economic developments.

Chapter One: Divided Germany, Divergent Ideologies, 1945-1989

I. Introduction

"The official West and East German pronouncements viewed the other's ideal women as victims. The Soviets and East Germans saw in the West German women little more than slaves to consumerism; the Westerners saw in their Eastern counterparts little more than unfree working 'Muttis' (Mommies). In both cases a powerful picture laden with historical significance was transported across the borders. By constructing pictures of women in one country as housewives and consumers, and in the other as 'being as good as men,' the roles of woman, mother, and worker were used on both sides for ideological legitimation, that is, to justify the different developments of the two postwar German political and social orders" (Young 1999, 44).

At the end of the Second World War, Germany was conquered and divided by the four Allied Powers: the United States, Great Britain, France, and the Soviet Union. By 1949, two separate German states had been formed: the Federal Republic of Germany (FRG) in the West, and the German Democratic Republic (GDR) in the East[1]. The former was under the control of the western three Powers: the United States, Great Britain, and France, and was established economically and politically as a capitalist state. The latter, meanwhile, was founded by the Soviet Union and subsequently became a communist nation. With the creation of these two states came the development of two very different state ideologies, affecting nearly every facet of the government and people; significant in this bifurcation was the development of two approaches to criminal justice and of two different gender ideologies.

This chapter analyzes the ways in which the criminal justice and prison systems in former East and West Germany in the years between 1949 and 1990 were informed by

[1] Note: I will be using the terms West Germany/Federal Republic of Germany/FRG, as well as East Germany/German Democratic Republic/GDR interchangeably throughout this chapter.

state ideologies of crime and punishment, looking particularly at how practices of incarcerating women reflected each state's envisioned expectations and idealized roles of women. This serves the argument of the thesis as a whole by clearly demarcating the differences in women's incarceration practices in East and West Germany based on their differing social, political, and economic placement. Additionally, it serves as a foundation for later chapters as they explore the development of such practices as these two German states underwent the lengthy process of Unification.

In this chapter, I argue that the treatment of women in East and West German prisons was reflective of the roles expected of these women outside of the prison, that the resocialization process necessarily indicates a certain model of ideal citizenship, and that the policies and programs in women's prison systems in East and West Germany were therefore reflective of communist and capitalist ideologies of femininity and womanhood—but not always of the realities of the lives and needs of actual German women. Because the state placed value in the reintegration of incarcerated women into society, it logically had a vested interest in the type of woman to be “produced” in the prisons. Taking into consideration the fact that both countries were to some extent organized patriarchally, and that the female subject to be reproduced in both prison systems was one of a marginalized citizen outside of the prison, it is important to understand how such oppression was differently expressed in East and West Germany. One way to differentiate these two manifestations of patriarchy is by defining East German patriarchy as “public” and West German patriarchy as “private”. This divergence can be seen in the primary power relationships that women experienced, with the State

and within their families:

> Overall, the nature of the state's role in public patriarchy was to emphasize the direct relationship of mothers to the state; the nature of the state's role in private patriarchy was to encourage wives' dependence on husbands and children's on parents. In turn, this means that in public patriarchy women experienced their oppression as mothers and as more directly connected to the activities of the state as patriarch; in private patriarchy, women experienced their oppression as wives and as more directly connected to their individual dependence on their spouses. (Ferree 1995, 12-13)

This is an important contrast to make in the course of this discussion of women's prisons in the FRG and GDR, as this public/private distinction was reflected in the patriarchal policies and practices of German women's prisons. While any binary, including this one, can be problematic if conceptualized too simplistically, understanding the ways in which these two forms of patriarchy influenced policies and programs in the German prisons is nevertheless quite useful. Both East and West German prisons practiced public patriarchy in the most basic sense: both became the primary paternalistic oppressor of incarcerated women, and made sure that these women's most direct relationship was with the state. Yet the programming inside reveals this broader distinction between private and public: while East German prisons attempted to reform women's subservience to the state, West German prisons aimed to retrain women to be proper domestic wives to their husbands.

Women's criminality in both states was considered deviant, but for different reasons: in the West, because the ideal German woman was thought of as a domestic, feminine housewife, and in the East, because all criminal behavior was inherently at odds

with communist ideology. The East and West German models of womanhood that the prisons put forth were, however, out of touch with the reality of women's lives outside of the prisons. In East Germany, the model of the ideal female socialist subject inside the prison ignored the significant role that motherhood played in the lives of many women. This model, in its apparent gender neutrality, disregarded the importance of many women's relationships with and care-taking responsibilities toward their children. In West Germany, meanwhile, the model of domesticity into which the prisons tried to mold their female inhabitants was one that was becoming increasingly challenged and outdated outside of the prisons, and that served to limit the occupational choices of these women upon release. These expectations of womanhood, and the extent to which they conflicted with the reality of women's lives and created barriers to women's empowerment and equality were articulated by feminists of the time. In addition to exposing the constructions of femininity present in the two states, the work of such feminists points to the complex relationships of East and West German women with their respective states—relationships that were manifested inside the criminal justice and prison systems just as they were outside of them.

Additionally, while both systems displayed traits of favoring a generally rehabilitative and resocializing approach in their criminal justice and prison systems, the actual conditions that resulted from the implementation of these policies lacked, to a large extent, a care-based approach to criminal justice. Often times they disregarded even basic human rights. There is no clear demarcation of good and evil between East and West Germany, nor was this unambiguous distinction present in the prison systems. Rather,

both systems were complex and often contradictory, and were in many ways indicative of the most failed aspects of communist and capitalist systems. Socialist feminist analyses of crime and punishment have been generally reluctant to critically examine actual examples of socialist states, and in particular their criminal legal systems (Schleef 1996, 222). It is important, however, to acknowledge the complications and contradictions of such a system, and to analyze the extent to which two corresponding states—one capitalist, one communist—viewed crime and punishment according to their own varying ideologies. As Debra Schleef notes, "there is much to be learned by studying the East German attempt to create a more relational and less adversarial legal system" (Schleef 1996, 222). The East German system is best viewed in a comparison with the West German system—two very different legal and economic systems formed by and supposedly for two arbitrarily split halves of a common culture of people. Likewise, it is useful to dismantle certain elements of the capitalist West German criminal and prison systems, as it contained similar tensions and inconsistencies as in the East.

a. Method and Structure

This chapter begins with an overview of incarceration ideologies and practices in the two German states, compiled through secondary source material as well as directly from laws and policies of the time. It shows first the ways in which both systems demonstrated elements of rehabilitative and resocializing ideology, then analyzes the places where this ideology fell short or became complicated. Next, the chapter explores the relationships of East and West German women to the state, as illuminated by the

feminist discourse and activism of the time. It then continues into a discussion of the treatment of incarcerated women in the two Germanys.

In order to view the experiences of incarcerated German women in the context of the lives of German women outside of prison, this chapter draws heavily from *Frauen im Gefängnis* ("Women in Prison"), a collection of writings from incarcerated women and women whose work brought them into close contact with the prison system in West Germany in the late 1970s. It also utilizes information from and about the feminist movement of the time to expose many of the nuanced realities and expectations facing women outside of the prison system in the FRG in order to better connect these experiences inside and outside the prisons.

Unfortunately, prisons were a taboo topic in the GDR (Arnold 1995, 81). This is not to say that no one was writing about them at the time, but it meant that GDR prison writing was not published prior to Unification. Thus, there was no East German equivalent to *Frauen im Gefängnis* from which to draw perfect parallels between the GDR and FRG penal systems. In order to paint as accurate a picture as possible of the prison system in the GDR, the chapter looks at the East German Penal Code, and engages with scholarship, both of the time (from West Germany or other non-Soviet countries) as well as with contemporary sources.

II. General Ideologies of and Approaches to Crime and Incarceration

The UN Standard Minimum Rules for the Treatment of Prisoners states that

> the purpose and justification of a sentence of imprisonment or a similar measure of deprivation of liberty is ultimately

> to protect society against crime. This end can only be achieved if the period of imprisonment is used to ensure, so far as possible, that upon his return to society the offender is not only willing but able to lead a law-abiding and self-supporting life. (United Nations 1955, 13)

The extent to which one receives therapy, resocialization, and work training is thus assumed to need not be any more liberatory than the role in society into which the incarcerated person has been positioned based on their gender, race, class, sexuality, religion, nationality, etc. German prisons, in their attempts to create proper capitalist and communist citizens, handled incarcerated women in ways that aimed to create more desirable female citizen-subjects.

It is prudent to begin with an examination of the ways in which criminal justice and prison policies reflected state ideology in the two German states: looking first at the ways in which both governments seemed to intend to rehabilitate and resocialize their citizens through care-based and relational policies, and second at the ways in which each system failed to do so, often failing even to fulfill the basic physical and emotional needs of their incarcerated citizens. Individual rehabilitation was limited by the lack of attention to the specific needs of incarcerated women, while collective resocialization was hampered by the prison systems' resistance to helping create women who would be empowered to face the realities of their lives outside of prison.

a. Federal Republic of Germany

1. Rehabilitation and Resocialization

The West German Penal Code was developed with the creation of the FRG and

dramatically overhauled in 1969, and in 1977, the first German Prison Act was implemented (Boetticher and Feest 2008, 367). The prison system reforms that took place in 1969 were "intended to strengthen the preventative purposes of punishment as opposed to its purely retributive aspects, and in this way to reduce the significance of imprisonment, in particular, as a form of punishment" (Dünkel 1995, 288). The Prison Act of 1977 ensured that "the legal status of prisoners was regulated by statute for the first time in West German history, thereby creating opportunities for executing prison sentences in a liberal manner and for improving the living conditions of prisoners" (Dünkel 1995, 302). It also declared that reintegration was to be the primary objective for prison administrators to pursue (Boetticher and Feest 2008, 367). Shorter sentences and the abolishment of the death penalty in 1949 under the Basic Law exemplified this move toward somewhat less punitive measures (Dünkel 1995, 288-9). The reasoning for the abolishment of the death penalty was its obvious preclusion of any possibility for rehabilitation or resocialization; thus, even in cases of a life sentence, the court had to guarantee that the time spent in prison would include provisions for rehabilitation and resocialization, and that in all but the most "heinous" cases (including multiple murders and Nazi-affiliated crimes), the individual had the chance to be paroled after fifteen years (Dünkel 1995, 289).

As a result of the major changes made in 1969, only 6% of sentencing resulted in unconditional prison terms; fines or probation were ordered for the remainder of sentences (Dünkel 1995, 289). This resistance to mass incarceration seems to indicate concern for the perpetrator's social and relational well-being—though political and

economic factors likely also played a role in the changes. According to the Penal Code of the time, which is still in use in contemporary Germany, the system intended to utilize, to a certain extent, rehabilitative and care-based restorative means of justice. Examples of this, in addition to the extensive alternatives to incarceration, included the following provisions: first, the amount of reparations that a perpetrator was fined—and this was by far the most often used punishment—was based in large part on a consideration of their own assets and/or income. Second, the sentencing procedure took into consideration the circumstances of the perpetrator's life leading up to, at the time of, and since the criminal act. Third, there were three main forms of incarceration: traditional prison time, psychiatric hospitalization, and detoxification treatment, and individuals were assigned to one or more based on their own needs (Federal Republic of Germany, 1976). By the 1970s, West German prisons also provided mandatory opportunities for education and work training, programs designed to enable better reintegration upon release (Dünkel 1995, 288).

The reforms of 1969 also emphasized the use of short prison sentences (those that lasted six months or less) as an alternative measure for those who seemed less likely to respond to a fine. These incarceration measures were intended to be employed in the place of a fine “only if the offender's personality or the special circumstances of the offense required such a sanction in order to influence the offender or to defend the legal order” (Dünkel 1995, 288). Like with many other provisions of the reform measures, the reasoning for the short prison systems was not retribution, but rather to prevent future criminal acts in each individual case. Additionally, fines and other “non-custodial”

sentences remained overwhelmingly the predominant avenue of the courts (Dünkel 1995, 288).

2. Critiques of Implementation

The extent to which the FRG's policies successfully cared for and rehabilitated its citizens, however, is debatable. The Prison Act was "flawed from the beginning by the fact that some of its finance effective provisions (higher wages and social security for prisoners) were not immediately put into force. They were postponed to a later parliamentary decision, which, however, never came about" (Boetticher and Feest 2008, 367). Frieder Dünkel points out that

> in many respects the Prison Act offers only an unsatisfactory compromise solution. In particular, the scope for discretion is too extensive and provisions are often vague, for example, about what is regarded as 'treatment'. (Dünkel 1995, 302)

Unfortunately, the implementation of shorter prison sentences, while seemingly preferable to longer sentences, and in many cases also to fines, had its own issues. Shorter sentences facilitated a lack of services inside—indeed, it was difficult to implement effective programming when the turnover rate of incarcerated individuals was so high—and though "it is quite possible to improve short-term imprisonment by giving it a treatment orientation," this change was slow and unevenly put into effect (Dünkel 1995, 292).

b. German Democratic Republic

1. Rehabilitation and Resocialization

East German criminal law looked much different from its West German counterpart. It was predominantly guided by Marxist and socialist ideas of the state, of citizens' roles within and in relation to said state, and of crime at a theoretical level. The general principles of Marxist and socialist ideology concerning crime saw it as inherently at odds with a socialist system; criminal acts were therefore dealt with not as somewhat natural or inevitable elements of society, but as residual effects of capitalism. Hans Joachim Schneider argues that East German criminology was “an instrument of propaganda; it was bound to protect the one-party dictatorship of the Communist Party. The belief was that the nationalization of the means of production would invariably produce a new type of man, a 'socialist personality' who would not commit any offenses” (Schneider 1991, 286). Following this line of thinking, crime would have eventually become obsolete through the reeducation and resocialization of perpetrators as better socialists.

This philosophy meant, however, that East Germans who committed crimes (all criminal acts were included in this—from theft to murder—and not just reportedly anti-Communist political organizing) were considered, to varying degrees, to be enemies of the state (Ziegler 1998, 1). To commit crime in the GDR, according to this theory, meant that one was either still operating under the influences of lingering traces of western, capitalist thinking, or that one was simply an aberrant socialist citizen. As a result, criminal acts were considered personal (and anti-social) problems, since the opinion prevailed that societal problems would disappear with the development of socialism.

“The message of socialist law,” writes Debra Schleef, “is one of discipline and education in proper socialist behavior” (Schleef 1996, 224). To this end, the emphasis was not on the rights of individual citizens, but on their needs—individually as well as collectively (Schleef 1996, 230). While a Marxist theory of crime does not fully account for all incarceration trends that actually occurred in the GDR, this ideology nevertheless permeated the criminal legal and prison systems (Sander 1979, 11).

Control of the East German prison system was passed from the Justice Department to the Department of the Interior in 1950, a move that facilitated the synthesizing of criminal and penal laws with the security of the state (Arnold 1995, 88). Accordingly, the GDR's Penal Code heavily emphasized the protection of the socialist state, and its interests were always put before the interests of individual citizens: “The socialist State,” reads the Code, “protects its state, economic, and military secrets above all else” (German Democratic Republic 1974). This is not to say, however, that this system was inherently more harsh or retributive than its capitalist neighbor; in fact, it drew upon socialist theories of incarceration that emphasized the care-based nature of community and the inherent importance of social relationality (Schleef 1996, 223). Incarceration was described in the Code as being by far the harshest of criminal punishments, and in all but the most serious cases, the courts did not turn to incarceration (German Democratic Republic 1974). Additionally, it emphasized that “the dignity of humans, their freedom and rights, are protected by the Criminal Law of the socialist State,” a proclamation which theoretically safeguards citizens' rights (German Democratic Republic 1974).

The official statistics kept by the GDR government show a sharp decrease in crime rates throughout the early years of the developing East German socialist state, from 2,536 criminal acts per 100,000 inhabitants in the period between 1946 and 1949 to 715 in 1984 (Sagel-Grande 1987, 92). Additionally, crime rates in East Germany were much lower before Unification than they have been since: according to government reports from both countries, the crime rate in the FRG was 10 times that in the GDR—though this low East German rate was likely a manipulated figure "for propaganda reasons" and did not include political prisoners (Schneider 1991, 287). Schneider, who has a clear West German bias, believes that the following are more likely excuses for the low crime rate in the GDR than the theory of a socialist extinguishment of such behavior: small urban populations, less "social mobility" and travel, a homogenous population and fewer "foreigners," more incorporation of youth into society, and a lower gross national income, which meant that there were simply fewer goods to steal (Schneider 1991, 288). There was also widespread decriminalization of many minor offenses, in which they were removed from the official penal code, but were nevertheless still subject to state penalties (Sagel-Grande 1987, 92). While these may be valid points to make, it should be noted that many of these factors are considered in the socialist model of citizenship and crime to be reasons why such crime rates would be lower in a socialist country—particularly the incorporation of youth into society and the relatively minor amount of consumerism. Additionally, a key reason for the low crime rates was the existence and prevalence of social courts—a somewhat informal system that allowed citizens to work out grievances amongst themselves without being involved in the traditional court system (Schleef 1996,

228).

One primary component of socialist reeducation was to firmly incorporate incarcerated individuals into the collective labor force. “Every prisoner in the GDR had the right to work,” writes Jorg Arnold, though the line between “right” and enforced duty was likely rather nebulous (Arnold 1995, 85). While the rights of laborers included in the FRG's Prison Act were never put into effect, in the GDR,

> this right to work was not only enshrined in the Prison Act but also occurred in practice. It meant paid work with all the normal social security benefits. In terms of social insurance, prisoners were placed on an equal footing with workers outside prisons. The wages of workers were not the same as those of workers outside: they amounted to only 18 percent of the take-home pay a normal worker would get for performing the same task. This was, however, above the international average for prison work and this was recognized and appreciated, at least after the turning point. (Arnold 1995, 85)

The relatively high wages for workers incarcerated in East Germany is particularly notable, and seems in line with the mission of East German prisons to engage incarcerated persons in “useful labor,” which presumably would have had some sort of effect on their ability to work outside as well, particularly since the Reintegration Act required that prisoners be guaranteed reentry into the workforce after release, preferably in the same industry in which they had worked prior to their incarceration (Ziegler 1998, 3). In addition to provisions for labor reintegration after a period of incarceration, the Reintegration Act stipulated that local governments had to provide housing for people who were recently released from prison (Ziegler 1998, 3).

Though the policies were seemingly very progressive, the realities of their

implementation, as Arnold explains, were far less than perfect (Arnold 1995, 86). The right to work, for example, was through no coincidence an extremely important resource for the state, and such programs inside the prisons

> must be seen in the context of the state's economic planning, of which the prisoners' work was a necessary part and an indispensable source of state revenue. But it should not be overlooked that it was a positive feature of the GDR to guarantee work for every citizen and to realize this goal within the prison system. (Arnold 1995, 85)

In this way, a socialist approach to incarceration seems to have been implemented in the GDR's prisons insofar as the ultimate goal was to reintegrate citizens by creating an environment within the prisons that recreated—at least in some senses—the world outside.

2. Critiques of Implementation

East Germany was known to have been a police state that extensively violated human rights, particularly those of political prisoners (Glees 1998, 173). Prisons in the GDR, which disregarded many of the UN's human rights guidelines for prisoners, were ideologically impermanent, and therefore operated under a very different framework than those in West Germany, which were serving the need that prisons in capitalist societies often do: that of a catch-all for the poorest and most underserved and disadvantaged by society (Sagel-Grande 1987, 91). It was perhaps this very idea of impermanence that helped to bring about the harsh and inhumane physical and psychological conditions in East German prisons. Additionally, the authoritarian nature of the GDR government left little room for citizen recourse; prisoners could not have the courts review complaints that they had about their treatment or about decisions made against them. Their only

option was to send reports to the administration of the prison itself, a fruitless and potentially dangerous action (Arnold 1995, 84).

Arnold contemplates the inconsistencies within the GDR, writing that

> we have to raise the question why the ideals of humanistic relations between individual, society, and state, which were announced at the inauguration of the GDR, were not applied to the prison system. Were they seen as inapplicable from the start or were they abused and betrayed only in actual practice? (Arnold 1995, 88)

This is an essential question in attempting to separate the ideological from the actual; perhaps incarcerated citizens were seen as so deviant from the expectations of communist citizenship that they were no longer afforded the same rights as those outside. Certainly, the conditions of the prisons themselves were dismal by anyone's standards, and this was acknowledged by international organizations and institutions. Prisons in the GDR "were not in accordance with the Standard Minimum Rules of the United Nations. This assertion refers to both the normative capacity and to the design of, for example, the sanitary installations, of the prison cells, but also to severe shortcomings with respect to the medical care of prisoners" (Arnold 1995, 85). The Council of Europe released an official statement in 1986 condemning the incarceration practices of East German prisons. They cited the following as being human rights violations present in GDR prisons:

> *a.* conditions of imprisonment, which are tantamount to physical or mental torture, such as deprivation of sleep or the threat of reprisals against families; *b.* hard labour, which is both unreasonable and detrimental to health; *c.* medical treatment, which is wholly insufficient and which often results in permanent damage to health; *d.* insufficient diet; *e.* refusal to allow a proper legal defense, and failure

> to communicate legal texts and the charges in due form until shortly before the trial; *f.* the separation of mothers from infants born in prison, as well as the separation of parents from their children for political reasons; *g.* inhuman overcrowding of prisoners in cells which are too small. (Parliamentary Assembly 1986)

While horrendous, these conditions were not unique to East German prisons, but the capitalist western world was quick to singularly condemn incarceration practices in the GDR. Thomas Ziegler describes the GDR prison system as having been under strict military rule. The top priority of such a system, he argues, was security. Just as the sanctity of the socialist East German state was in many ways compromised by the presence of harsh governance, so, too, were many of the aims of a resocializing prison system obstructed by its austere security measures (Ziegler 1998). The conditions described by the Council of Europe were symptomatic of this inconsistency, revealing the extreme discrepancy between socialist ideology and its implementation.

Though the GDR's ostensible goal seems to have been to reeducate (or retrain) incarcerated individuals as appropriate communist citizens, this seems to have been mostly ineffective. The education and training that took place within East German prisons "was to a large extent also ideological education.... measures of ideological training (e.g. participation in relevant lectures, discussion, etc.) were obligatory for all prisoners." The guiding belief behind such programs was that proper socialist citizens—male and female—would commit no further offenses (Arnold 1995, 84). Ultimately, the efficacy of the GDR's system seems rather grim when viewed in light of East German recidivism rates, which rose from 18 percent in 1970 to 35 percent in 1985, a very telling marker of

how well the goals of rehabilitation and resocialization were truly accomplished within the prison system (Arnold 1995, 87). While lowered crime rates overall showed elements of a successful socialist state, the raised recidivism rates demonstrate how the prison system seems to have lagged behind other sectors of East German state and society in synthesizing socialist ideology and reality.

III. Women and Feminism in the Two States

The distinction between a capitalist and a communist system can tell us much about how the approaches to criminal justice and criminality differed between the GDR and the FRG, but it does not tell the whole story. As criminologist Jeffrey Reiman explains, communist and capitalist theories of crime are unable to account for everything that occurred at the time. Though the ideological differences between two such systems are quite clear, "actual criminal justice systems will be approximations of this tendency. Actual criminal justice systems will also clearly be shaped by human actions—often substantially so" (Reiman 2003, 204). Reiman's explanation serves to support the argument, offered often as an explanation for the continued presence of crime in the GDR, that residual capitalist values in East Germany were largely, if not wholly, responsible for the supposedly unsocialist criminal behavior that was still occurring. Additionally, this line of thinking helps explain why socialism was unable to completely eradicate patriarchy.

Despite these discrepancies between ideology and reality, there are clear differences in the ways in which incarcerated persons, particularly incarcerated women,

were viewed and treated in East and West Germany. These differences can essentially be traced back to the (admittedly complicated and imperfect) capitalist/communist distinction, largely based on the extent to which the roles and expectations of women in the two systems differed. Examining feminism and feminist activism that was occurring in the two states exposes not only the expectations that each state had of women and the roles that each imposed on them—which was further reflected in the programs and policies affecting the resocialization of incarcerated women—but also the true realities of women's lives, realities which were not always adequately addressed within the prisons.

Additionally, an analysis of feminism in the divided Germanys illuminates the relationships that existed between East and West German women and their respective states. These positionalities, exemplified by the avenues and attitudes toward womanhood, activism, and the state taken by feminists in each country, help inform the relationship of incarcerated women to the two states. Here, we begin to see this distinction between public and private patriarchy, and its widespread implications.

a. Federal Republic of Germany

The issues facing West German women were the outcome of the patriarchal needs of a capitalist state, much as those facing East German women were influenced by a somewhat patriarchal socialist approach to labor participation “equality”. West German women, unlike their East German counterparts, struggled to be accepted, treated as equals, and compensated fairly in the workforce, causing the right to work to become an issue of primary concern to West German women. Women in the FRG were expected

primarily to be wives and mothers, and their role in the capitalist labor market was mostly unpaid and in the home (Cooke 2006, 136). Though the Basic Law in West Germany officially decreed gender equality, it was “a proclamation without much content. Lawmakers saw in this clause no special obligation to realize the equality of women” (Young 1999, 46). This de facto lack of access to financially compensated labor, and therefore to economic resources, was the impetus for much of the feminist movement in the West.

The West German women's movement was divided into two main factions: the autonomous and the institutional feminists. The autonomous feminists envisioned breaking away from the system, while institutional feminists intended to work within it (Young 1999, 27). The

> inability to gain access to the party and state structures not only 'forced' social movements into working outside traditional party channels; the less egalitarian and highly bureaucratic political culture also gave rise to a more radical, noncompromising feminist movement. The militancy of the German autonomous movement can be seen both in its 'anti-organizational ideology' and in its anticonventional 'action repertoire'. (Young 1999, 52)

This antipathy towards the state and government structures, and the relative freedom that West German women had to challenge such institutions seems to have created an environment in which criticizing the criminal legal and prison systems was expected. The West German prison system, then, was invested in retraining the women inside to be docile, domestic, and subservient to their husbands; whether this was in response to the feminist movement on the outside is unclear, but it certainly shows the importance of this sort of idealized femininity to the state. Women outside the prison

system were struggling against the passive roles given to them, and none broke away from this idealized image of womanhood more than the women who had committed crimes; thus, the state's aim was to bring incarcerated women back into the fold of a lifestyle that was being widely resisted on the outside.

b. German Democratic Republic

Expressions of women's discontent in East Germany looked much different than in West Germany. Women activists, writers, and intellectuals did not consider themselves to be feminists—to them, the term referred to a set of bourgeois values and actions[2]. Accordingly, a vocal women's movement did not crop up in the GDR until the late 1980s, and was more reformist than revolutionary, unlike its West German feminist counterpart (Young 1999, 29).

Women in the GDR were expected to be workers or working mothers, but had a relatively high level of economic independence, due in large part to provisions in the GDR's constitution that allowed for year-long maternity leave, family allowances, and monetary compensation for childbearing women (Kranz 2005, 74). Though there were considerable progressive policies in place allowing them to be supported in and in control of their reproductive labor, women's emancipation was in the form of rights that the paternalistic state handed down to them, rather than what was articulated by the women themselves. East Germany's socialist ideologies of supposed gender equality “left no

[2] Though East German women activists, writers, and thinkers were not using the term feminist and feminism, I will continue to refer to them and their movement in such terms, since their anti-sexist thinking and action would be considered feminist by most standards, and because they themselves eventually did come to embrace the terms.

independent action for women themselves in constructing their own identity. Emancipation was decreed 'from above.' The ideological commitment to solving the women's question from above was to some extent also born out of necessity [of rebuilding the labor force after WWII]" (Young 1999, 63). Though many of the freedoms and rights granted to women in the GDR were directed towards them as mothers, other rights, such as affordable and accessible abortions, gave women a great degree of control over their bodies; their role in the socialist state was not entirely that of a mother, but rather primarily of a socialist worker and citizen (Kranz 2005, 75).

Feminist activism in the GDR had to remain within the rubric of socialism and communism, just as all forms of activism did. Feminist writers of the time "tended to complement rather than criticize public policies on women" (Martens 2001, 29). That is not to say, however, that it was state control that forced women writers and activists to think only within the framework of socialism; since Unification, a large number of East German women and feminists have remained committed to many of the ideals and benefits afforded to women and to society in general under a socialist system (Funk 1994).

When GDR General Secretary Erich Hoenicker declared the 'women's problem' to be solved, this meant that the role of women in the GDR was still rigidly defined by the state, though it was a working role that sharply contrasted to that of women in the FRG. So-called *Mutti-Politik* ("Mommy-Policy") consisted of policies designed to better enable women to balance work and domestic labor (Kranz 2005, 73). It was found, however, that this double role—that of worker and mother— was expected only of East Germany

women (as opposed to being shared by East German men). As this double standard became increasingly clear, women “realized that their understanding of 'emancipation' was different from the views of their political leaders” and began to articulate their discontents (Kranz 2005, 73).

In East Germany, socialist feminists, though they appreciated the government-sanctioned benefits they had, resisted the government's assertion that gender equality had been reached, and wished to be able to define their own needs. East German feminist writers, “having had no fear that women would lose their legal equality and their right to work, focused precisely on the contradictions that full employment created in the lives of women. Believing women to be equally productive members of society, they thought they were entitled to corresponding personal fulfillment” (Martens 2001, 20). Though the patriarchal role of the state gave women only the rights and equality that benefited the communist system, women were not eager to throw such rights out the window—rather, they wished to break down some of the inconsistencies resulting from the still-existing patriarchy.

Lorna Martens argues that feminist writers in the GDR began to write about topics only after they were legal or state-sanctioned, so that the critiques of certain elements of East German society were still somewhat aligned with the interests of the state. She discusses how women's literature in the GDR often worked to make certain “women's topics” issues that could be written about and discussed, and describes how this process occurred discursively at times, “but more often it is made performatively: speaking out about these topics itself breaks down the barriers against speaking about them. The

boundaries of what can and should be talked about are expanded most effectively by the sheer force of repetition, by critical mass" (Martens 2001, 33). This process happened slowly, and ideas could not be suddenly thrust into the public consciousness. Rather, issues had to be introduced in ways that inconspicuously made them part of the established socialist-sanctioned discourse. In this way, stories "collected around topics that had been not so much controversial as invisible" (Martens 2001, 33). The taboo nature of prisons and incarceration in East German discourse kept it from being publicly discussed in East German women's circles, but the GDR women writers' and activists' focus on the role of women in peace-making activity could have been applied to a criticism of penalizing practices in the criminal justice system—not from a standpoint of breaking away from socialism entirely, but of reforming it.

IV. Women in Prison

a. Federal Republic of Germany

The Federal Republic of Germany had a small but passionate contingent of feminist criminologists and activists who were concerned with the growing population of women who were incarcerated in West German prisons. Marlis Dürkop was among them; she was critical of the oppression of the prison system, particularly as it did not take into account the needs of women and as it demonstrated practices that further marginalized and disempowered them.

In order to examine more closely women's incarceration practices in the FRG, it is useful to look specifically at the collection of narratives, reports, and policy

recommendations on the incarceration of women in the FRG contained in Marlis Dürkop's 1978 *Frauen im Gefängnis* (“Women in Prison”). The book was meant to incorporate both theory and praxis, to be scholarly but also a tool for activism. Dürkop explains in the introduction how “we were of differing opinions about whether or not this should be a 'scientific' book. We believe that theory and practice are inseparable” (Dürkop 1978, 15). This book, then, was to be a collection of entries that would illuminate and inform theory while contributing to efforts to improve prison conditions.

Women in the FRG were sentenced to shorter periods in jail than men and were mostly housed in co-ed prisons, in which the women's wing was separate and much smaller (on account of the small ratio of female to male inmates) (Dürkop 1978, 42-43). By the late 1970s in many West German states, education for women in prison was something only conceived of as a future project. Though education programs and job training for men incarcerated in these states in were already implemented, and their benefits highly regarded, for women there was naught but a nod to similar programs being established in years to come (Dürkop 1978, 48). Programs for incarcerated women in the FRG were slow to be developed, in part also because the number of women incarcerated in the former West Germany was very low— both in comparison to now, and to the number of men incarcerated at the time. When programming eventually did start to develop, the education and labor opportunities inside reflected the occupations and expected tasks of women on the outside, and were thus geared towards retraining women in a domestic skill set: sewing, cooking, cleaning, and even cosmetics (Dürkop 1978).

The West German prisons were described as being violent institutions, and the

state as the perpetrator of such violence. Dürkop writes that "the state-inflicted violence of incarceration is felt by every woman who enters a prison" (Dürkop 1978, 10). The most direct and severe violence that women experienced in prison was not that which was personally inflicted between people, but rather the structural violence of broken social relationships, of the denial of individual needs, etc. that inflicted the most harm on incarcerated women (Dürkop 1978, 11). Furthermore, the internal suffering that women who committed murder experienced was akin to a partial death of themselves, especially if they were made to live in such a desperate emotional state in the prison setting (Dürkop 1978, 12). Dürkop documents the narrative of an unnamed formerly incarcerated woman who was completely shocked and devastated by her sentence, believing her life to come to a complete halt for the duration of her incarceration. In time, though, this woman realized that life did continue in prison—but that it did so excruciatingly slowly (Dürkop 1978, 20). Gertraud Will, in her section titled "Letters from Prison: Excerpts," describes how her fellow incarcerated women would have rather stayed in prison longer than they had to, simply because they had no support and no solid relationships on the outside (Will 1978, 24). This, it seems, speaks to a culture of individualism that can breed isolation; but more importantly, it shows how women who ended up in prison often did so because of a lack of healthy, supportive, long-lasting support systems on the outside. Dürkop connects the plight of women outside with those inside:

> Many women perhaps sit behind bars because they were aimless and powerless to fight back against an unfulfilling and comfortless life outside of prison, to which they found no alternative. A prison that seeks to eventually reintegrate its inhabitants into society must facilitate a reentry that makes possible an independent new life. (Dürkop 1978,

49)

Relationships (intimate and otherwise) that women did have prior to their incarceration were fraught with tension and difficulties: in many cases, they were particularly unhealthy or abusive. The majority of women who entered the criminal legal system had themselves committed no "criminal" acts, but rather were accomplices to husbands or boyfriends. This precluded an association with their own behavior or independent sense of self, and kept them essentially tied to their boyfriends or husbands (Dürkop 1978, 25). West German crime was seen as an individual, masculinized phenomenon by the state, and was treated as such by the courts and prison administrators, though feminists such as Dürkop worked to illuminate the structural and societal inequalities that led to crime and incarceration. Feminism in West Germany was aimed at aligning government structures with the real economic and social needs of women, either by fundamentally changing the system (as autonomous feminists sought to do) or by making it simply more inclusive of women (the work of institutional feminists) (Young 1999, 27). A hybrid of these two approaches can be seen in Dürkop's critique of women's prisons and the criminal justice system, as her book's analysis suggested ways to both reform and revolutionize women's incarceration in the FRG.

b. German Democratic Republic

East German women were not writing about prison as such; it was not a topic that the state tolerated much public discussion about, especially considering the secrecy and political volatility involved in the Stasi disappearing of "dissident" citizens. Accordingly,

the majority of information about the experiences of incarcerated East Germans, particularly women, has come to light since Unification. As long as the GDR remained a viable state, “individuals detained by (its) authorities were forced to agree never to mention their experiences in detention” (Glees 1998, 166). This secrecy contributed to much of the misinformation—both positive and negative—that spread through the west about prisons in East Germany.

While the West German system seems to have treated incarcerated women as particularly feminine, East German prisons tended to de-feminize women in the criminal legal system—often at the cost of addressing their health and familial needs. There was “a particularly high level of criminality and therefore non-femininity imposed upon the female political prisoner by the GDR regime” (Richmond 2010, 347). Though the system was supposedly built upon socialist principles of equality, community, and relationality, “there is no evidence that the East German legal system, created primarily by males, truly incorporated any 'female voice'” (Schleef 1996, 233). This means that, though women in East German prisons may have been treated similarly to East German men, this treatment seems to have been based on the model of a generally masculine citizen, rather than taking into account many of the physical and emotional needs of women. In her autobiographical book—published since Unification— Elizabeth Graul recalls her time spent in GDR prisons. She describes the relative lack of privacy and difficulty in obtaining feminine hygiene products during her incarceration and explains how she was given men's clothing and underwear upon her arrival in the prison (Graul 1991, 65). The femaleness of incarcerated women was stripped away, particularly for political prisoners;

under the communist system, women in the criminal justice system were, first and foremost, socialist citizens gone astray.

Debra Schleef argues that although socialist, and particularly East German law, is much more in line with feminist values of relational, non-adversarial approaches to law than are western, capitalist legal traditions, the application of these care-based elements of socialist law in the GDR were not completely successful in eradicating sexism and hierarchies. This was due in large part, she argues, to existing western ideologies and value systems among individuals and even, to some extent, the state (particularly as it is made up of individuals) (Schleef 1996).

V. Conclusion

The practices and policies of crime and the treatment of incarcerated women in the GDR and FRG reflected the social and economic roles that women in the two states were expected to fill, since criminal behavior in both was considered a deviance from that role (as criminal behavior tends to be)—West German women, because they defied traditional ideals of domesticity and womanhood, and East German women, because to engage in "criminal" behavior was inherently at odds with socialism for all citizens, male or female. West German women, in their relative lack of participation in the labor force (outside of the home), were slow to receive work or educational opportunities in prison that did not align with an expectation of domesticity and motherhood. East German women were considered to be more equal in the labor force of the GDR, though they were treated not simply as working women, but as working mothers; this treatment of women as mothers did not, it seems, extend to the prison space. If East German women

were in prison, according to socialist ideology, it was because they lacked the correct socialist attitude—or deference to the paternalistic state—and needed to be brought back into this mindset through, first and foremost, socialist education. If West German women were in prison, it was because they had strayed from their docile, domesticated role within the heteronormative family structure that is so central to capitalism. While West German women were made to knit, sew, and apply makeup in prison, East German women were learning how to be proper socialist laborers. Both the FRG and GDR were out of touch with the realities of women's lives in each country, nevertheless attempting to resocialize women as the sorts of idealized females that would most benefit each state and its ideologies.

The stark differences between East and West German women's prisons thus serves to underscore this study' larger argument, illuminating how formative social, political, and economic structures are to the construction of crime and incarceration in a given state. Prisons are much more than reactions to crime or criminal behavior—though social and economic systems serve to influence these trends as well—they are the products of the particular nations in which they exist, adapting to new social, political, and economic developments as they occur. In this chapter, divergent ideologies of these two capitalist and communist states were reflected in the very different women's prison systems that each built.

The tension between the East and West set the stage for the complicated process of Unification that began with the fall of the Berlin Wall in 1989, especially as it occurred legally, among feminists, and in the prisons. Given the disparate relationships of East and

West German women to the state and to prisons during the Cold War, as examined in this chapter, it is little wonder that the relatively quick official Unification process would be fraught with the complexities of trying to reconcile the neighboring states, which had two very different gender ideologies and realities, as well as two very different approaches to crime and punishment.

Chapter Two: De-centralization of Power and its Discontents in the New Capitalist State, 1989-1995

I. Introduction

When the Berlin Wall fell on November 9, 1989, Germany and the world looked on in awe. No one had anticipated such a peaceful and seemingly sudden end to forty years of restrictive East German communist rule. Although the impending dismantling of the German Democratic Republic's government was not immediately clear, the opening of this physically and culturally significant border was a major concession for the East German regime, and it was obvious that major changes were on the horizon. When the final decision was made to dissolve the GDR and absorb it into the Federal Republic of Germany, capitalist nations around the world rejoiced. But East Germans had mixed reactions to this monumental change: though the lifting of many restrictions on civil liberties was certainly a welcome development, many were resistant to capitalism and its myriad fundamental flaws.

Still, one could view the collapse of the East German government as a victory for the de-centralization of power—theoretically a central feature of successful capitalist democracies. Though the downfall of this totalitarian regime certainly spread political power out among multiple political parties, state governments, and various bureaucracies, the true nature of this decentralization, and whether it actually gave the power back to 'the people' is rather less clear. The change was deceptively liberating; in fact, as we can see

through the eyes of East German women, as well as through those of East German men and women who were incarcerated, it in fact shifted power away from women and incarcerated people, power that they had developed under the communist regime. Additionally, many of the positive aspects of the German Democratic Republic (pensions in prison, state-supported childcare) ceased to exist under capitalism, exposing the limitations of Western conceptions of 'freedom' and 'liberty' as they are accessible to those who most need social securities to survive and to prosper. I argue that although women and incarcerated people had already been oppressed within the East German state, the forced shift to capitalism served to further marginalize them— and disproportionately so, in relation to other East Germans.

Prior to Unification, much of the activism and grassroots organizing in the East German states had taken place in private spaces such as homes and churches, spaces to which women had ready access. After Unification and the supposed decentralization of power, the relocation of such organizing and decision-making effectively excluded women—due to blatantly sexist reasons, as well as to the fact that many women in East Germany (as in West Germany) were charged with the primary care of their children. Additionally, the role of women in East Germany shifted from communist worker to capitalist consumer—a profound change of ideology and lifestyle.

This decentralization phenomenon can be seen in the restructuring of the East German prison system as well. While the East German system had been highly federalized, the West German system gave most of the administrative power of the prisons to individual states, as well as to the institutions themselves, though the national

government set certain regulations, many of which were based on European Union standards. Though there were regulations and guidelines that all the Federal Republic of Germany's states were supposed to follow, the extent to which certain practices were implemented was ultimately up to the discretion of each individual state. This new penal system would have perhaps theoretically worked for the newly incorporated East German states, except that prisons do not exist in a vacuum; rather, they are inexorably tied to the communities and societies in which they are built. Thus, many of the characteristics of these Eastern states—widespread poverty and unemployment, for example—affected the extent to which these West German programs could be effectively implemented in the East.

Unification in Germany was an upheaval for all involved—East Germans had to adjust to an entirely new social, political, legal and economic structure, while West Germans had to accustom themselves to their new, broader borders, while financially and politically supporting this new annexation. Throughout this chapter, I show how government intervention—by the supposedly less totalitarian system—served to disproportionately disadvantage certain populations, and to disrupt many of the natural social and political processes that had been occurring prior to Unification. Two such populations were East German women and incarcerated individuals. Because there is relatively little information on incarcerated women during this period, I focus this chapter primarily on these two broader groups in order to best understand the implications that Unification would have for incarcerated women in contemporary Germany. In the course of this exploration, I argue that despite the illusion of capitalism as grassroots and purely

democratic, the experiences of women and incarcerated people in the years surrounding German Unification reveal a certain degree of top-down power in West Germany's government and prove that communist regimes do not hold a monopoly on federal authoritarianism. This chapter also serves to strengthen the thesis' overarching argument that prisons are institutions that reflect the gender-specific, economic, social, and political atmospheres in which they exist, by proving that one can indirectly trace and predict the changes to women's incarceration practices by tracking the changes to un-incarcerated women's lives and the lives of incarcerated men and women. Furthermore, it ultimately works to further illuminate how the plight of incarcerated women in Germany reveals much about the Unification process itself.

It is a long-held belief that women were particularly disadvantaged by Unification; similarly, the assertion that crime increased significantly during this period is generally held to be true (Ferree 1995, 10). Yet more important than the numbers of those in prison (in East Germany, actually a very low figure) was the qualitative make-up of the incarcerated population, and attention to what was taking place within the prisons. The West German system was responsible for synthesizing the policies and practices of the courts and prisons across the East-West border, and their foremost priority was security. For women in prison, one of the most noticeable changes was the spread of West German socialization practices into East Germany; though the notion of womanhood was being streamlined across borders in prison, the clashes between the two feminist ideologies among East and West German women on the outside reveal the extent to which these incongruities affected gender roles in the newly unified German state.

Furthermore, Unification caused a surge of violence against immigrants and foreigners, mostly as a result of waves of unemployment and poverty in East Germany that led to a rise of neo-Nazism across Germany. This national anti-foreigner sentiment seems to have been reflected in the criminal legal system, as prisons began to be filled with people of color. The significant rise in immigrants and people of color in the German prison system reflected the changing nature of the prisons, and of the new social and political uncertainties in the country, which was grappling with the notion of a new German identity, one that delivered fewer benefits—particularly to its newest citizens from the East—than promised. Racial and cultural tensions were high, and issues in the prisons became part of this troubling trend.

Unification was a time when women hoped to be able to engage fully in the political changes being made—particularly East German women, who saw great potential in the shifting political landscape, which many hoped would lead to a reformed socialism. But as it became steadily more apparent that East Germany's communism would simply be taken over by West Germany's capitalist system, women became disenchanted and increasingly disengaged with the political landscape. This disengagement parallels and can thus be compared to the reform of East German prisons—namely, that in lieu of increased programming and rehabilitative services, West German capitalists spent the limited resources allotted to East German prisons on increased security, losing many of the advantages of the socialist prison system. In short, Unification was most detrimental to those who had been already most marginalized under the GDR's system—women and those who were incarcerated. Capitalism served to further disadvantage them.

The term "Unification" is in fact somewhat of a misnomer[3]—the merger that took place in Germany in 1990 was in no way an equal combining of two states, in which each state had to make compromises to their system. Instead, it was essentially an annexation of the former GDR to become an extension of the FRG; and while both systems witnessed their own repercussions from this acquisition, the shock to East Germany's system was certainly the most severe (Berghahn 1995, 29). This process "started from the idea that, for moral and economic reasons, the East German system should not be the model for reform. Every change…. reflected the asymmetrical image of unification as a whole, in which the east was to accede to the west, rather than a joining of two equal partners" (Berghahn 1995, 41). This new unified Germany was to be a thoroughly capitalist state.

The collapsing of communism that was occurring throughout Eastern Europe caused varying degrees of devastation for the economies and people of the individual states involved. All things considered, the unique situation of East Germany, with its ties to a strong, established capitalist state that dedicated itself to absorbing the formerly socialist economy meant that it fared much better than other former communist countries that had to make the transition with far less assistance. The advantage, however, "of being exposed rapidly to advanced standards" was tempered by "the disadvantage of having little influence over the building of the new structure" (Berghahn 1995, 38). East Germany may have had more state-sanctioned social securities in its day, but was less

[3] Though it is much more accurate than "reunification," which is quite misleading; the Germany that was created in 1990 had never before existed with those exact borders or that name. Additionally, the FRG and GDR were created after the end of WWII, and, prior to 1990, neither had ever covered all of what we now know as Germany.

self-determining, a conundrum that seemed to drive much of the debate about the merits of communism versus capitalism. Formally, capitalism had won out, and West Germany was to lead the way through this transition.

a. Method and Structure

As previously mentioned, there is a dearth of information on incarcerated women during the years of Unification. This chapter is therefore useful in tracing the changes that occurred for non-incarcerated women and for incarcerated people of all genders, and primarily utilizes studies and critical papers from the Unification time period, as well as more current research. In doing so, we can better understand the historical, cultural, political, and economic aspects of women's incarceration in Germany, bridging the gap between the years in which Germany was divided and contemporary, unified Germany.

The chapter begins with an analysis of the minimal information available on women incarcerated in Germany, describing the changes in programming that incarcerated East German women were forced to experience—namely, that they had to transition from being resocialized as socialist workers to being trained exclusively in domestic, traditionally feminine—by capitalism's standards—tasks. By beginning with this small window into this aspect of Unification, the chapter will be better prepared to fill the gaps in information explaining exactly what women in German prisons underwent during these years—and how someone investigating the history of German women's prisons can trace the conditions in the divided Germanys to the present state of women's prisons in the Unified state.

Then, the focus shifts to looking at how women fared in Unification: how they had initially hoped that this process would provide an opportunity for increased feminist political influence and an equal partnership in the new state, but how it soon proved to only further disenfranchise and disadvantage women in both East and West Germany. East German women were particularly oppressed by Unification, both in their political aspirations, as well as in the employment, motherhood, and reproductive rights that they lost in the process.

The chapter ends with a thorough exploration of the changes and reforms that the prison systems in East and West Germany underwent throughout the Unification process. In the East, the decentralization of responsibility for administering prisons—from the federal government to the individual states—meant that each East German state was 'adopted' by a West German state in order to better facilitate this transition. This overhaul of East German prisons provided an opportunity for reforms to be made in West German prisons as well, as it exposed the weaknesses in both systems. However, the change was not uniformly positive; as pensions for incarcerated East Germans were lost, for instance, the notion that the switch to democracy was a vast improvement for former GDR prisons seems particularly unstable.

II. Women in Prison

Based on the very limited information available on changes in incarceration for women during the Unification years, it appears that conditions for women incarcerated in West Germany did not substantially change from the pre-Unification years to the years

directly afterwards. In East Germany, though, it seems that the same sort of transition to West German penal practices that was happening in the men's prisons was also taking place in the women's prisons. However, in addition to an increase in security, incarcerated East German women were also suddenly faced with the same forms of socialization in the prisons that women incarcerated in West Germany had been subjected to prior to Unification—that which trained them in domestic tasks.

By "1991 there were 1,575 women in prison" (Messner 1995, 139). Because the majority of these incarcerated women across Germany were still housed in women's sections of men's prisons, they usually had little to no "training or social facilities, let alone work opportunities. In these appendices of male institutions, women are mainly required to perform traditional tasks assigned to them such as cooking and sewing" (Messner 1995, 139). This was certainly a shift for East German women, for whom prison had provided a relatively gender-egalitarian resocialization experience, focusing on communist values of work and devotion to the state—albeit brutally, at times. This treatment inside the prisons for women in unified Germany echoed

> forms of socialization in operation for women in patriarchal society. These usually hinge on the learning of passive roles, while episodes of women's deviance are often interpreted as an escape from this passivity. Problems are therefore individualized, and deviant women are deemed to 'individually' fail to conform. In this way, women's social background is overlooked, while the development of an individual sense of guilt is strongly encouraged. (Messner 1995, 139)

This learned passivity was spreading across Germany—both within and outside of the prison, emphasizing this new role that East German women were to play in a capitalist

society.

III. Women's Role in Unification

The collapse of the German Democratic Republic in 1989, while in many ways quite sudden and unexpected, was by no means without context or pretext. Activist groups had been gaining strength and support in the years leading up to the fall of the Berlin Wall, and had been increasingly tolerated by the communist state. The nature of these groups was, however, still rather outside of the scope of the government, and tended to exist primarily within private spaces. For this reason, among others, women were central to the rumblings of discontent that eventually caused the seemingly indestructible pillars of government to disintegrate and eventually collapse completely. This was yet another fact that set the GDR apart from its fellow eastern European cousins, as in "the course of the 1989 events, women vanished from the political scene in Czechoslovakia, Hungary, Romania, and Poland. This was not the case in East Germany. Like mushrooms after a warm autumn rain, hundreds of groups, initiatives, and projects popped up out of nowhere during October and November 1989 in the German Democratic Republic (GDR)" (Schaeffer-Hegel 1992, 101). This was likely due to the fact that activism throughout East Germany prior to Unification had existed in spaces that were often occupied by—or at least very accessible to—women. Throughout the GDR, "single mothers, academic women, artists, actresses, and writers met in churches and universities, reopened women's sections of parties and unions, started a multitude of groups and activities. A feminist web began to stretch out across this Communist state" (Schaeffer-

Hegel 1992, 101). Additionally, “universities, coffee houses, and political groups—the traditional male arenas—were not at the forefront this time. Women provided the energy, filled the refugee camps and the streets” (Schaeffer-Hegel 1992, 102). This wealth of woman-powered activity worked both with and against the state to fight for peace and against the patriarchal elements of the GDR's government.

Women were not only instrumental in the activist circles prior to Unification, but their work contributed to the *Wende*, or Turning Point, as “they generated the pressure that finally broke down Stasi power and the Communist regime” (Schaeffer-Hegel 1992, 102). Immediately after the Wall fell, there was a flurry of activity, with different groups finally able to come out of their semi-hidden spaces and publicly acknowledge and join forces with one another. At this time,

> lesbians, female theologians, peace and human rights activists, and academic and church women came together on December 3, 1989, to create the Independent Women's League, or *Unabhängiger Frauenverband* (UVF). This is not only the day when East German women expressed their desire to unite their 'different voices' within a larger organization; it also signaled their intent to play an active role in the transformation of state and society. (Young 1999, 74)

The rise and fall of the UVF would prove to be indicative of the political journey of East German women as a whole throughout Unification.

Social networks and political groups that existed prior to 1989 had been confined to church and university spaces; after the fall of the Wall, they were “able to constitute themselves as movements in the early summer months of 1989 as the East German political opportunity structure 'broadened' and revealed the first signs of the state's

vulnerability" (Young 1999, 75). At first, this broadening provided these women's groups with the opportunity to participate fully and openly in the political arena, though this accessibility would soon diminish. The conception of space as being a determining factor in who was involved in political organizing (though of course the demographics of those involved in political organizing also determined the spaces in which this work occurred) was instrumental in women's changing political power.

An early cause of unrest for many of the feminist and other women's activist groups (many of which began as peace and human rights organizations) in the GDR was the increasingly clear realization that the collapse of their government would not lead to a better and more democratic socialist system, but that it would instead require them to be absorbed into an existing (capitalist) government. They "did not see themselves as direct opponents of the socialist state; rather, they strove to reform socialism. Their goals were to establish basic civil rights such as free speech, free and secret elections, and freedom to travel. Issues of structural equality of the sexes, which existed to a large extent in the GDR, were not relevant for these groups" (Miethe 1999, 6). This structural equality did not exist in the FRG, which presented the question of what sort of equality the unified German state would provide for the women within it.

The significance of women's roles in East and West Germany prior to Unification continued into 1990 and the political proceedings that took place during that year. The intense political upheaval seemed to have great potential for women to become meaningfully involved in the new East German government, whatever form that was to take. Particularly in the months "between the *Wende* and the official joining of the two

German states, many feminists, especially in the West, hoped that conditions for women would improve and that political institutions would be forced to fulfill long-requested legal demands" (Berghahn 1995, 37). The UVF was effective in bringing the various women's groups together. Their main purpose was to act as "the umbrella organization for a large number of feminist and nonfeminist, religious and nonreligious, lesbian and heterosexual groups of women," and "was resolved to fight for the survival of at least some of the achievements which, in spite of Communist atrocities, had enriched the lives of East German women and which—in spite of Communist suppression, hardships, and deficiencies—had made the GDR the state with possibly the most advanced women's rights legislation in history" (Schaeffer-Hegel 1992, 103). In short, they fought to improve their position in Germany—and to not lose the relative equality they'd had in the GDR.

The political de-centralization of power seemed promising as well. The reigning (and for all intents and purposes, only) political party in the GDR, the Socialist Unity Party, or *Sozialistische Einheitspartei Deutschlands* (SED) had held all of the official governmental power. Therefore, "with the collapse of the SED government, the opposition groups had the opportunity to leave the private space and express themselves publicly. This new possibility was cast in a positive light... At the same time, however, the nature of political activity changed" (Miethe 1999, 13). This dissipation of political power, with its new ability to take place in the public arena, essentially handed much of the activism and organizing to men, who were more able to devote themselves to public politics, not having children and families to take care of or sexist Western stereotypes to

combat. The demands of work and family responsibilities were incongruent with around-the-clock political organizing:

> With German unification, the locus of political activity was shifted out of private space and into the public sphere. At certain points the private space remained a locus of political action for the women, but its importance became significantly smaller under the conditions of a democratic society than it had been during the period of dictatorship. Activities in the private sphere did not have the far-reaching effects that they had had under the GDR. These changes also entailed fundamentally different conditions for women. (Miethe 1999, 13)

At first, briefly, it did seem that this new political structure could be an avenue to affect positive policy-level change for women. The Independent Women's League drafted legislation that they hoped would be included in the new system (Berghahn 1995, 42). Expounding upon the rights that they had become accustomed to during the decades of relative sexual and economic emancipation in the GDR, the group fought for even more feminist progress at the governmental level, arguing during the constitutional debates for "equal rights for unmarried and married persons, more financial support of families to help with childrearing responsibilities, and more daycare facilities" (Berghahn 1995, 42). The New Forum, a central citizens' group dedicated to creating new legislation and directing the Unification process, was initially a seemingly perfect place for women's groups to be at the heart of decision-making. This proved to not be the case; "although the New Forum considered itself a meeting place for all opposition activity, it soon became evident that women's political interests were given no space there." Many groups "quit the New Forum.... after their demand for quotas was dismissed. The women who remained in the New Forum did not articulate explicit political interests of women"

(Miethe 1999, 7). At the time of Unification, women constituted 40% of the New Forum, but within 5 years after Unification, that number had dropped to 20% (Miethe 1999, 8). The first Germany-wide "elections, like those for the new State Parliaments in October 1990 and for the first all-German Bundestag in December 1990, proved to be largely detrimental to women. The Independent Women's League.... lost all the way down the line" (Schaeffer-Hegel 1992, 107). Though women's political activity continued into the 1990s and beyond, this crushing defeat was a major blow to the momentum of the movement, and set back many of the intended feminist projects of the time.

Though there is clearly ample evidence of the ways in which women extracted themselves or were expelled from the public political sphere in the years following Unification, this assertion admittedly relies on a masculinist, patriarchal conception of politics. If this conception were

> widened to include nonparliamentary/nonelectoral contexts, it can be shown that women of the movements of 1989 are not less active than before Unification. All of these women are still working in diverse nonelectoral groups and contexts.... In the political consciousness of these women, this is less a withdrawal from "politics" than a questioning of whether the institutional political arena is the only possible or most desirable one. (Miethe 1999, 19)

Additionally, East German women continued to be politically active in their opposition to the many anti-feminist, anti-woman changes. They "organized demonstrations in Berlin, Dresden, and elsewhere.... They went out onto the streets to fight for their reproductive rights and against the installation of West Germany's abortion law. Later, when capitalist practices relentlessly started to devour socialist achievements, they protested against the destruction of social institutions" (Schaeffer-Hegel 1992, 107). They were not going to

concede their rights without a strong show of resistance.

Ultimately, though “the integration of the two societies, in which the demand for gender equality is rather common, could have been an opportunity to work out higher legal and social standards for the whole of the country.... the actual process of policy-making only illustrated the reflected image of the Western status quo and the approach of quick adjustment to the Western model” (Berghahn 1995, 38). The issue of decentralization seems to have been a key reason for this complicated relationship that East German women had to their changing state; “the paradox arises that for some East German women the pluralistic and democratic structure of the Federal Republic appears even more awkward and inaccessible than the former socialist system in East Germany” (Berghahn 1995, 45). The political transformations enabled—and in many ways emboldened—men to become more powerful, but left many women behind.

Not only did women lose their foothold in the political sphere, but they suffered economically and socially as well. It has become entirely commonplace for scholarly commentators on this period in German history to state that women were the most disadvantaged by Unification: “the phrase 'women are the losers of the unification' has become virtually a cliché; moreover, it does reflect reality” (Ferree 1995, 10). Nearly as soon as the *Wende* phenomenon began, East German women, specifically, were widely known to be suffering the most, “yet the question of how this result could have been avoided has not played a substantial role in legal debates” (Berghahn 1995, 37). East German women also lost many of the concrete, government-issued rights that they'd had prior to 1989. For example, Unification almost immediately brought with it the abolition

of “the monthly housework day for women and mothers, the large-scale release for parents to nurse their sick children, lengthy fully-paid maternity leaves (six weeks before and twenty weeks after the birth), better job security for single mothers (guaranteed until the child's third birthday), and financial support for a sufficient number of public child care facilities” (Berghahn 1995, 39). Though gender equality in West Germany had supposedly been legally guaranteed in the FRG's constitution, “unlike the FRG, the East German Constitution was amended by two clauses which compelled the state to make equality for women a reality in economic and professional life” (Schaeffer-Hegel 1992, 103). The collapse of the GDR meant the disappearance of these securities.

Were West German women as consistently disadvantaged by the Unification process as East German women? Or did Unification simply put West and East German women on an even keel with one another, since they were now governed by the same system? Because West German women had the advantage of having worked within this system for many years, they had long since developed methods for working against it. East German women's

> concern with making policy and holding political office makes much less experiential sense to (West German) women in private patriarchy, who perceive their lives as being more directly shaped by nonstate actors and by cultural norms and expectations that are not formally enacted into law. Within the context of private patriarchy, the role of the state is more indirect and thus less visible, and the more obvious targets for action seem both more diffuse and more personalized. To those accustomed to public patriarchy, this focus can look like too much concern with symbolic issues, such as language, that are "trivial" compared to direct confrontations with policymakers. (Ferree 1995, 20)

Though East German women had seen their male counterparts as instrumental in their activism towards peace and better governance, East German men showed little loyalty to these women in the course of integrating themselves into government structures of the unified state. These same men were fighting their own fight: to gain political ground in a climate that was no more tolerant to communism and its former citizens than it had been prior to the collapse of the Wall. East German men effectively pushed East German women out of the public political sphere and "embarked on defining new roles for their former partners: dependent, housewife, mother. Because socialist dogma of equality was exclusively concerned with women's ability to work, it had not touched men's patriarchal inclinations in the slightest. While in the old Communist order, women's work was useful for men's economic goals, this was no longer the case" (Schaeffer-Hegel 1992, 108). East German women, after years in the GDR, had not been provided "with training in resistance, or with organizational skills such as debating, electing a Chair, preparing an agenda, and other formal procedures. Nobody had learned anything of the sort in the GDR and West German women could not help them, as they themselves rejected utterly most forms of organized political action" (Schaeffer-Hegel 1992, 108). Thus, East German women were left with very few allies.

In addition to the political, economic, and social disadvantaging of women that occurred, particularly in East Germany, clashing ideologies and approaches to activism between East and West German women led to a fracturing of the feminist forces at work in the newly unified country. This was particularly troubling to many activist women, as they had hoped that the fall of the Wall would enable them to join forces and trade ideas

with their sisters on the other side. Instead, they found that the two groups had experienced distinctive forms of oppression and different relationships to their respective states, and had therefore developed very disparate needs and attitudes towards gender and feminism. Two very “differently grounded feminist identities that arose in these differently organized social contexts have been forced by unification now to share the same political space. Each has a tendency to disparage the degree of feminist understanding of the other with terms such as backward, hypocritical, arrogant, a theoretical, callous, naive, hypersensitive, know-it-all” (Ferree 1995, 16). The fact that East and West German women shared a common ethnicity, language, and history—prior to 1945—led many to assume at first that they would share many of the same issues and goals. In fact, these commonalities “made German feminists underestimate the difficulties of communication and the gulf in experience and identity that was still to be bridged when the Wall fell. The sheer unexpectedness of such fundamental differences blocked many attempts to listen to and learn from theory grounded in a significantly different structuring of women's lives” (Ferree 1995, 17-18). This led to a profound 'othering' effect, in which each group saw their own feminist efforts and theorizing as more legitimate or developed. They went so far as to accuse the other side of “not 'really' being feminism, according to the standards of one's own collective self-representation, have contributed to the disillusionment and discouragement of both sides” (Ferree 1995, 21). This sort of tension was extremely divisive, and served to further splinter feminist efforts throughout Germany.

Another immediate effect of the spread of capitalism to the Eastern states was the

transition towards private property ownership, a transition that had widespread repercussions, particularly for women. In addition to being the hardest hit in the formal employment market, they lost many of the bartering and informal labor practices that they had become adept at over the years of communist rule. Essentially, capitalism turned East German women away from their ideological role as producers and towards one in which they were consumers—and their bodies were in many ways the stage for this transformation. They "were affected directly and immediately.... when state-owned property was transformed into private property. Because more women than men were without income, their opportunities to obtain mortgages and loans for buying land and/or real estate were more limited" (Sandole-Staroste 2002, 164). Housing costs, as well as all other living expenses, increased sharply in the former GDR states. This particularly affected women, who were often responsible for household finances and for making ends meet. In the new capitalist market, "the networks where goods and services were bartered had disintegrated because everything had become easily available for those who could afford it. The material situation many women found themselves in after reunification, with costs increasing and resources dwindling, often caused frustration and resentment" (Sandole-Staroste 2002, 167). This economic desperation would eventually lead to an increase in women's incarceration rates—with fewer resources and more expenses, German women were left with difficult choices in how to support themselves and their families.

This change also directly and indirectly affected women's (and men's) ideological roles in East Germany—from producer to consumer. This "transformation of state

socialism to capitalism introduced capitalism's essential pillars into the everyday life of East German women: private property and consumption, and clearly defined gender roles and class distinctions—all reinforcing Germany's patriarchal structures. This impacted widely on women's material conditions and often, though not always, limited their opportunities" (Sandole-Staroste 2002, 168). This deterioration of economic security for East German women seems to be directly linked to criminal activity among women after Unification, and to the subsequent increase in incarceration. Women were no longer able to labor and produce in the capacity that they had been used to—now their role was that of consumer, which many were unable to fulfill.

Women's bodies were, as they often are, the battleground upon which this transition can be clearly seen:

> West Germany's capitalist system not only 'encourages' women to objectify and package their bodies to conform to sexual stereotypes, it also 'educates' women to become consumers. Material consumption, and not income-generating work roles, is to be the basis of how East German women define their *identity* and roles in reunified Germany. Because material consumption is essential for capitalism, it requires a set of corresponding values and behaviors and the construction of needs, wants, and preferences for nonessential goods. (Sandole-Staroste 2002, 161)

This new identity was a fundamental shift for East German women, and not all women simply woke up one day and became willing or enthusiastic capitalists—though some certainly did. For many, however, the process happened gradually, and often subtly. Because this was a transition that required them to change not only their habits but also their very identities, "by 'making' her a 'natural' consumer, who packages her body in

accordance with sexual and other stereotypes, and 'persuading' her to embrace a lifestyle that is defined by powerful commercial interests," it was met with significant resistance by many East German women (Sandole-Staroste 2002, 161-2). Still, the retention of communist and socialist beliefs did not save even these women from falling prey to the capitalist machine, causing many to suffer from widespread unemployment and poverty.

Unfortunately, the essential role of women in German Unification has been marginalized or even completely forgotten, despite their obvious participation in this historic moment:

> German unification was symbolized by the two male heads of government, Helmut Kohl and Lothar de Maziere. In the media they were celebrated as the 'fathers of unification.' This media language makes symbolically clear the gendered process that actually took place in the course of the transition and the unification that followed: the increasing invisibility of women in public political action and in institutionalized politics. (Miethe 1999, 2)

Despite certain major gains since Unification for East German women—for instance, the election of former-GDR citizen Angela Merkel as Chancellor of Germany—the hegemonic narrative surrounding Unification still tends to downplay or fully exclude the substantial role that women's and feminist groups played in the late 1980s and early 1990s in Germany. The effect of this exclusion has been that the loss of rights and of the potential to create positive feminist change in Germany during this period has been brushed over. Unification, in this light, seems to have been a gender-neutral process that benefitted all and had the best interests of all at heart. As we have seen, this was not the case, and the losses that women suffered were both significant and widespread.

Ultimately, the changes that occurred in the political and personal lives of East German women during Unification were beyond their control; capitalism's influence, with its supposed increase in democracy and freedom, was disproportionately disadvantaging to the women of the former GDR, whose active particiption in the early days of Unification have been largely forgotten. Women were not alone, however, in their Unification discontent. Incarcerated populations suffered from the capitalist takeover as well, though in even less publicized or recognized ways. Though Unification may have benefitted certain Germans, these improvements did not extend to women—or to incarcerated people, for whom capitalism and democracy proved to be a bumpy road.

IV. The Prison System

The effects of decentralization in Germany can be also seen in the changes that took place in the prisons, particularly those in East Germany. As with women's rights and benefits, prisons in East Germany were in many ways disadvantaged by this shift. Included in the legal and political adjustments that constituted the Unification process was the takeover of East German prisons and of its criminal legal system by West Germany. With the enactment of Unification legislation, East German prisons were immediately under the jurisdiction of the West German system, and because this system left most of the administrative powers of the criminal legal system and the prisons in the hands of the individual states, each of the five East German states being incorporated into the West German nation was adopted by an already established West German state, known as the 'guardian' state. This meant that “the administration in the new federal

states has been built up by sending staff from the old states to the 'partner' states. So, for example, the staff of the prison administration in the Ministry of Justice and also most of the prison governors in Saxony are persons who have been sent temporarily (some of them into permanent posts) from Bavaria and Baden-Württemberg" (Dünkel 1995, 103). West German prison administrators, without in-depth knowledge of the problems facing East German prisons, were suddenly responsible for their renovations and reforms, and the West German criminal legal model became that which was used nationally—leading to a plethora of problems for East German criminal legal institutions.

Not only did East German sentencing and programming practices need to be aligned with those of West Germany, but the facilities themselves needed to be substantially renovated and brought up to European standards of prison livability—standards that West Germany also had not met. Though the supposed demilitarization of the facilities and administration of East German prisons was at first glance a positive change, the actual economic, political, and social conditions of the former GDR states posed many complicating problems for this to successfully occur. In principle, the rights of incarcerated citizens were

> to be safeguarded against the background of the basic principles of the German constitution, namely the rule of law and the principle of welfare, or the 'social state principle'. The latter principle, which entails a duty on the part of the state to support its more needy citizens, has particular implications for prisoners. For imprisoned citizens, support means rehabilitation, which in a sense can be seen as one of their rights (Messner 1995, 133).

Economic and political conditions of East German prisons made the fulfillment of these rights a particular challenge, and one that West Germany did not immediately or fully

grasp.

The early 1990s was a time when prisons in both East and West Germany were facing increasingly complex issues; for instance, “between 1983 and 1991 the number of drug addicts in prison doubled.... they now represent 20 percent of the male and 40 percent of the female prison population respectively” and by 1994, one in five incarcerated drug users—or more than 1,000 people—was HIV positive or had AIDS (Messner 1995, 138). Unification only served to complicate and intensify many of the issues facing German prisons, though it had had the potential to call attention to many of these problems and enable positive changes.

Targets of a large portion of these changes were the guards, administrators, lawyers, and judges and other employees of East German prisons: it was believed that they would be obstacles to the implementation of the new “democratic” prison system, since their training had been militaristic and totalitarian. Following this line of thinking, “the creation of a climate supportive of resocialization will require in the first instance a 'resocializing of the resocializers', that is, the comprehensive education of prison personnel” (Dünkel 1995, 108). Though prison administrators in the East had been replaced by West Germans,

> the 'normal' prison officers had to be taken over from the former GDR prison service, which was strongly influenced by the Ministry of the Interior and militaristic hierarchies. Most former prison governors had to be dismissed because they worked together with the ministry of state security ('Stasi'). This kind of transfer from West to East Germany led to a transfer of different prison regimes ('styles') based on the different prison regimes in the old federal states. (Dünkel 1995, 110)

The mix of East and West German prison officers was a source of tension as well; this new hierarchy that suddenly placed West German officials above East German officers was fraught with resentments and resistance and diverted attention from the needs of incarcerated individuals.

The main focus of the renovations of the East German prisons became to increase security and prevent 'escapes', and though a large amount of money was “transferred to the new federal states as part of the process of German unification, the prison system is likely to continue to be regarded as of secondary importance. As a first priority, improvements regarded as necessary on security grounds are proving the easiest to implement, whilst the establishment of treatment or education programs is regarded as being less important” (Dünkel 1995, 108). This strategy had problematic and negative implications; in already poverty- and unemployment-stricken post-Unification East Germany, the low prioritization of education, treatment, and job-training programs served only to further disadvantage incarcerated East Germans. Meanwhile, the increase in security measures begs two important questions: first, if security measures in the supposedly totalitarian East German prisons were inadequate, what does this indicate about West German prison standards? And second, if resocialization and rehabilitation were primary tenets of the West German criminal legal system, was this increased security a sign that East German prisons and incarcerated East Germans were considered un-resocializable or un-rehabilitatable?

The extent to which decentralization of governmental power in the East German states gave agency to citizens and more local authorities was particularly complicated by

the nature of prison reform in the new system. Such reforms did not come about as part of "a wider movement for societal improvement.... Instead the impetus has come from above, that is from prison experts imported from the West and installed in influential positions in the ministries and in positions of authority in the prisons" (Dünkel 1995, 95). There was a new conservatism emerging in Germany at large, contributing to this focus on security rather than social services in the prisons. With reform being primarily security-driven, and conceived and implemented by supposed experts from the West, it is little wonder that the unique needs of incarcerated East Germans were a relatively low priority in the reorganization of this system. In fact, many of the "positive aspects of the GDR prison system...were lost in unification, such as (relatively) better rewards for work and the inclusion of pensions" (Dünkel 1995, 110). In many ways, this parallels the losses in social services and benefits felt by East German women during Unification in favor of greater 'freedom'. Throughout Unification, these two sides of the same Western coin—'freedom' and 'safety/security'—trumped social services and labor and family benefits, much to the detriment of women and people in prison.

While East German prisons were the primary focus of penal reform in the early 1990s, the overhaul of such a system was also an opportunity for some critics and policy-makers to take a closer look at certain aspects of West German prisons—which were also in rather shabby physical condition—that did not meet certain European or even nationally-determined West German standards (Dünkel 1995, 111). One such aspect in need of change in West Germany was the number of people housed together. The FRG's Prison Act—the primary piece of legislation dictating criminal legal policy in West

Germany—decreed that no more than eight people were to live in a single cell. Overcrowding in the Western prisons meant that in many cases, this standard was no longer heeded. In East Germany, meanwhile, this standard had never been set, and the prisons had been designed based on a different, more socialist-based model. As of the spring of 1993, "71 percent of prisoners in the new federal states still had to share their cells with another prisoner. In the West the proportion was 42 percent, which is clearly less but which does not come near to meeting the objective of the Prison Act" (Dünkel 1995, 101). Both prisons systems needed to make significant improvements in this area, yet neither were willing to prioritize allocation of the resources needed to achieve these objectives. The state-by-state discrepancies carried over into high-security measures and administrative punishments as well. The harshest form of punishment, as legally defined by the Prison Act, was solitary confinement (which was not to be given for more than four weeks at a time). Though instances of this practice had decreased overall in West Germany in the twenty years prior to Unification, there were still huge discrepancies in the extent to which individual states chose to utilize it (Dünkel 1995, 107).

Short prison sentences were a staple of the West German criminal legal system's penal approach, though their rehabilitative capacity was often questioned and criticized, leading to more instances of fines in place of these sentences—though such monetary penalties can hardly be defined as rehabilitative, and seem in fact to be purely punitive. In the year 1991, "the number of persons found guilty of an offense, including both adults and juveniles, was 622,390, of which 521,000 received a fine. Since the late 1980s, fines represent on average more than 80 percent of all penalties" (Messner 1995, 132). By the

mid-1990s, just six percent of all punishments given in German courts included prison sentences longer than one year, and one third of the German prison population was serving less than 9 months (Messner 1995, 132 and Albrecht 1997, 77). In addition to concerns about short sentences being a waste of the state's resources, there were many who criticized the early release of prisoners, which was considered by some to be "at odds with the official principle that the treatment of offenders is to lead to rehabilitation. Prisoners are so quickly in and out of custody that no treatment is possible for those who both need it and are entitled to it under the constitution" (Messner 1995, 132). The jury is still out on whether or not these shorter sentences and a reduced emphasis on incarceration was beneficial for reducing crime and for resocializing and rehabilitating Germany's citizens; regardless, both short sentences and fines were not elements of East Germany's system until Unification dictated their implementation in these states.

What had, however, been shown to reduce recidivism was the increase in allowing incarcerated people out on work furloughs, often an element of open prison programs. Prior to Unification, West German prisons had found these furloughs to be very successful. Many of the Western prison reforms of the 1970s "related to the relaxation of the prison regime and furloughs (home leave). In the period 1977 to 1990 alone, the number of furloughs and day leaves.... per 100 prisoners increased almost fourfold, without any increase in abuse of these measures in terms of not returning to prison or committing crimes during the leave period" (Dünkel 1995, 104). Though West Germany had excelled in open prison programs, East Germany had never experimented with these relaxed-security facilities or with work furloughs (Dünkel 1995, 103). In part, this was

due to the highly successful, well-paid work positions within East German prisons—positions that were lost through Unification. By 1992, “there were 194 prison institutions, of which 151 were defined as 'closed', 22 as 'open', and 21 as prison for juveniles. Of the 59,002 places available, 45,892 (78 percent) were occupied” (Messner 1995, 133). Though prisons were not filled to full capacity, open prisons were by no means the prevailing model. The “provision and use of open prisons which the legislature required in the Prison Act has also led to an unforeseen degree of variation in interpretation, both at state level and at the level of individual institutions” (Dünkel 1995, 102). Implementation and interpretation of this concept varied greatly from state to state, and especially so between the Western and Eastern states, and generally had little or nothing to do with the behavior or degree of assumed danger of the prison population in each state or institution. The so-called 'open prison' was “described only in terms of absent or reduced security measures” (Dünkel 1995, 102-3). Even the specificities of an open prison were very much left to the interpretations of individual states. Besides “differences about the definition of open prisons, there is also considerable variation amongst the old federal states in the extent to which use is made of such prisons.... The city-states, who certainly do not have less difficult prisoners than the other federal states, have an above-average number of prisoners in open prisons” (Dünkel 1995, 103). Discrepancies in interpretation and implementation were practical as well as ideological. For example, the economic situation of the Eastern states was not so accommodating of this concept; where unemployment was higher—the East—fewer work furloughs were granted, and open prisons were less successfully established.

Prisons in post-Unification East Germany, in some ways, served the state by reducing unemployment; after Unification, people incarcerated in East Germany lost the high wages and state pensions that they had previously had while incarcerated. Furthermore, the Eastern states granted far fewer prisoners work release than the West did, owing largely to extremely high unemployment rates in the East. In the Eastern states "work-release prisoners are an extreme exception (only eight permissions per 100 prisoners, in comparison to 47 in the old federal states)" (Dünkel 1995, 105). There was also the question of how many East German prisons to close, how many to renovate, and whether or not to build new facilities (Dünkel 1995, 109). What was decided was that the prison system would expand, allowing for "an imprisonment rate of approximately 100 per 100,000 of population, if prisons were used to full capacity" (Dünkel 1995, 109). This would be slightly higher than the old West German states, and significantly higher than the old East German states. By "31 March 1993, the imprisonment rate in the old federal states was 92 per 100,000 population.... The lowest rate of imprisonment in any of the old federal states, 53 per 100,000 population in Schleswig-Holstein, is still significantly higher than the overall average of the new federal states (35 per 100,000)" (Dünkel 1995, 109). Incarceration rates in East Germany had dropped drastically in the first few years of Unification—from 187 to 29 people in prison for every 100,000 people in the East German states from 1989 until 1993 (Messner 1995, 144). This "can be explained by the extreme severity of the old regime, but also by the fact that many East Germans may now be serving a sentence or be remanded in custody in the West" (Messner 1995, 144). The goal of the supposedly reforming system was to bring this number up, though not quite to

that of pre-Unification East Germany—which had included a disproportionate number of political prisoners. The prison system was, in many respects, expanding under West German rule, despite the belief that this capitalist takeover of the criminal legal system was one that reduced the role of government.

This expansion was particularly deleterious for those in East German prisons, which, in relation to West Germany, had fewer resources, more outdated and in many cases dilapidated facilities, and a lower incarcerated population to begin with. This "danger of inequality between what can be offered to prisoners in the West and in the East can be avoided most effectively by keeping down the numbers of prisoners in the new federal states" (Dünkel 1995, 109). Unfortunately, this is not the direction in which the prisons were going—incarceration rates were in fact slated to rise. Certain criminal legal scholars noted the problematic nature of such expansion and called for reforms that would particularly benefit the East German prisons—benefits which the extension of West German policies and programs into the former GDR states seemed unable to achieve. Among these reforms were included

> a strengthening of the co-responsibility of prisoners, the integration of voluntary advisers and citizens from outside the institution into the rehabilitative endeavors of the institution, increased opening of the prison by means of more liberal provision for visits including unsupervised longer visits...and the increased use of relaxation of the prison regime and furloughs are key concepts in this regard. The provision of telephone boxes in prison, the granting of permission to individual prisoners to listen to the radio and watch television programs of their choice, and other measures designed to increase prisoners' access to information and opportunities to communicate with others are relatively expensive and make explicit the social (welfare; *sozialstaatliche)* aspects of the sentence of

imprisonment. (Dünkel 1995, 109)

Many of these reforms were care-based and would help shift the focus of East German prisons towards resocialization and rehabilitation—goals that Unification's initial security-driven remodels had de-prioritized. The fact that these reforms were still being called for by 1995—five years after Unification—shows the incredibly slow nature of prisoners' rights reforms during this time, and in this political climate.

As with the oft-heard statement that women were the losers of Unification, it is also commonly understood that Unification caused—either directly or indirectly—an increase in criminal behavior in both East and West Germany. There are many theories to explain this phenomenon, and statistics to argue both that crime did and did not increase at this juncture in history; regardless of the numbers themselves, it seems more important to look at the causes of economic, social and political discontent—discontent that was certainly present, despite the title given to the fall of the East German government: “the Peaceful Revolution”. Attention regarding the matter of increased crime has been directed primarily towards immigrant groups and other “foreigners.” Indeed, the Unification years saw a significant increase in the proportion of immigrants and individuals with immigration backgrounds in the criminal legal and prison systems. In fact, the numbers showed that incarceration rates were “decreasing for German offenders, a well-established phenomenon that originated at the end of the sixties. The increase in the number of prisoners at large is solely due to increased numbers of foreign minorities” (Albrecht 1997, 80-1). This is a troubling trend, as it seems to indicate a criminalizing of foreigners, immigrants, and non-white Germans during this period.

West German criminologist Hans Joachim Schneider cited the following reasons for why crime supposedly rose after Unification: first, that people (here, he seems to refer specifically to East Germans) would be dissatisfied with their own economic drop or disappointingly meager rise. Crime would thus "be committed out of a feeling of deprivation or frustration." Second, that the clash of two opposing systems of social and economic organization would lead to conflict between people, many of whom were young and/or of the working class, and who "have never properly learned peaceful strategies of conflict resolution," so "a rise in the crime rate is almost inevitable." Third, that the sudden increase in consumer goods in East Germany would cause a rise in property crime. Fourth, that a supposed increase in quality of life would lead parents to neglect their children and adolescents, who would then create strong subcultures and engage in delinquency. Fifth, that the underdevelopment of the East based on the large-scale migration into the West, as well as the general lack of economic resources, would further disillusion and disenfranchise East Germans. Finally, that

> all these social and economic changes will further speed up the societal disorganization that had set in decades ago in the German Democratic Republic. Social and interpersonal interaction will become defective. Social groups such as schools, families, neighborhoods, occupational, and leisure time groups lose their capacity of informal social control. This must not be confused with self-help or the extension of the state control network; rather, it constitutes a voluntary, democratic self-control. (Schneider 1991, 291-2)

Here, even through his strongly capitalist bias, Schneider recognized the strong presence of non-governmental community power structures throughout East Germany prior to Unification—power structures that were destroyed with the collapse of the GDR, leading

to civil unrest and possibly an increase in criminal activity.

What role did those with immigration backgrounds living in Germany play in crime and incarceration during the years of Unification? By “the late 1980s (West) Germany's success in reducing the overall size of the prison population, as well as in improving the safeguards theoretically offered to those in custody, was praised.... More recently the pendulum has swung back again. The German prison population is rising, fueled, it seems, by public anxiety in the aftermath of Unification, but also by the perceived threats of immigration and drug related crime” (Messner 1995, 128). Certainly there was an increase in the percentage of people in German prisons who had foreign or immigration backgrounds; “the proportion of immigrant prisoners rose considerably in the last decade and amounts to a fourth of the prison population (including pretrial detainees and sentenced prisoners, youth and adult prisoners)” (Albrecht 1997, 79). Though taken on its own, this statistic could perhaps be accounted for by the increase in foreign immigration after Unification, there was also the fact that “foreign offenders are likely to be handled differently compared with German offenders on legal grounds, as decision making in the criminal justice system in several respects takes account of bonds to conventional society such as place of residence.” Additionally, the rise of drug markets in Germany and of “participation of some ethnic minorities in black markets, especially drug markets, is likely to lead to disproportionate use of pretrial detention and prison sentences. This reflects concern not for ethnic minorities but for illicit drugs, which continue to provoke massive criminal justice reactions” (Albrecht 1997, 37). It therefore seems that a variety of complicating factors seems to have caused this increase. The rise

in foreigners in German prisons did not necessarily correlate to a rise in crime, however, as "every sixth foreigner in German prisons at the beginning of 1994 was awaiting deportation, *not* serving time for a crime" (Albrecht 1997, 80). Of foreigners and those with immigration backgrounds who *were* serving time for having committed a crime, "drug offenders are a major reason for the sharp increase in foreign offenders since the late 1980s. Prison data…. show that drug offenses substantially account for the increase in foreign prisoners during the 1980s and 1990s. Property offenses add also considerably to imprisonment rates" (Albrecht 1997, 81). Additionally, much of the violent crime attributed to these minority groups was actually violence inflicted *against* them by native-born Germans, especially as unemployment and poverty in East Germany post-Unification led to a rise in neo-Nazi activity (Messner 1995, 143). Unification "caused not an increase in crime, but rather the increased victimization of more vulnerable groups" (Messner 1995, 144). This victimization was exacerbated by the criminalization and incarceration of such groups. If there were discrepancies between how East and West Germans were treated within their respective prisons, this phenomenon also certainly existed for non-Germans incarcerated in German prisons, as "some minorities experience a different kind of prison regime from that experienced by German inmates. Foreign prisoners participate less in furlough programs and prison leave programs" (Albrecht 1997, 81). Incarcerated foreigners in German prisons faced discrimination in terms of access to certain rights and privileges—including television and other forms of entertainment. They also tended to have little connection to the outside world visa vis family and community (Albrecht 1997, 83). These conditions further blurred the

distinction between perpetrators and victims of crime and the criminal legal system under the newly unified system: was the purpose of such a system to perpetuate oppression present outside of the prison space?

V. Conclusion

Though the amount of information on incarcerated women in Germany between the years directly prior to Unification and those following it is inadequate to draw many conclusions, the extensive information detailed in this chapter concerning women outside the prisons—particularly East German women—as well as the prison system in general, works to shed light on the significant changes in women's incarceration policies and practices across Germany between the time when the country was divided and the contemporary unified state, as I explore in the next chapter. Additionally, this chapter is central to the overall argument of this thesis, revealing the extent to which political, economic, and gendered changes to the FRG and GDR reverberated throughout Germany's unifying prison system.

Unification had a monumental impact on nearly every facet of German life. Prisons, as functions of the social, political, and economic times and places in which they exist, were naturally affected by this change. Though trace elements of communist values and policies no doubt remained in post-Unification Germany, capitalism was now the norm—economically, politically, and socially. In a capitalist democracy, power is theoretically spread out among the people, or at least among certain people. Though East Germany had been run by a very controlling central government, the ways in which

power changed hands after Unification served to advantage some people and disadvantage others. For women, and in many ways for people in the prisons, this power shift left them grappling for new identities and roles within the new, unified Germany.

Chapter Three: Gender, Criminality, and Social Welfare in Post-Unification Germany, 1995-2012

I. Introduction

In the two decades since German Unification, the country has seen tremendous economic, social, and political growth. In the dark days of the European financial crisis, Germany has stood out as a rock of economic and political stability, and has proven its importance in the international market. To most of the world, Germany now seems to be one smoothly running, unified nation. Within Germany, however, there remains a significant discourse surrounding the phenomenon of *Mauer im Kopf* ("wall in the mind"), which describes the continued shared mental sense of division between East and West Germany, despite the lack of physical or political borders. This

> wall in the mind of East versus West may be a more lasting barrier to political progress than was the concrete barrier that fell in 1989-90. Politically, the wall in the mind may affect basic attitudes toward policy priorities, the definition of democracy, and the evaluation of the political system. (Hofferbert and Klingemann 2001, 365)

For instance, when asked if they placed greater value on freedom or equality, the majority of Germans in both East and West answered that they favored equality—but this majority was much more pronounced in East Germany (Hofferbert and Klingemann 2001, 365). Though capitalism may have spread to East Germany, socialist ideology continues to play

a role in citizens' relationships to their government throughout Germany. Additionally, it could be argued that the economic instability of surrounding European nations has brought Germany together in a new way. Though unemployment and poverty remain higher in East Germany than in West, the strength of the nation as a whole in relation to its neighbors has had a positive effect on the national climate, and has brought new international attention to Germany. No longer is news from Germany based primarily on the Cold War division; now, Germany's latest *Wirtschaftswunder* and its bolstering of Ireland, Greece, and Italy dominate the press.

With the well-publicized recent successes of Germany, however, have come some troubling new trends. Since Unification, Germany's prisons have continued to grow in number and in population—and women's prisons and housing units have been no exception. Though any expansion of the prison system seems problematic, Germany has at least countered this growth with a great deal of development in programming, funding, awareness and accommodation for the specific needs of incarcerated women. As a result, many of the policies and practices in place in Germany today are quite progressive and work to appropriately address the needs of incarcerated women. And while an understanding of the specificities of incarcerated women's unique situations has proven to be quite beneficial to women in German prisons, there is even now an unease in Germany around the concept of incarcerated and “criminal” women: though the state tends to productively resocialize them, society still struggles to reconcile conceptions of femininity with those of criminal activity.

Furthermore, women in prisons today largely tend to be those who have fallen out

of the definition of “successful” as it is conceived of in collective German society—or who were never a part of this definition to begin with—and who have failed the German standards of what constitutes a good citizen and what constitutes a good woman. This seems to be tied to the developments explored in the previous chapters: idealized roles for women in Germany were being defined and redefined for them, leaving many disenfranchised from the system. Thus, while the resocializing aspects of the criminal legal and penal systems work to bring these women back into the folds of German society, it is a state and a place that many of them never inhabited in the first place. Herein lies an essential weakness in Germany's otherwise-prospering system: it continues to neglect the needs of its most underprivileged women, far before they are ever incarcerated. Through this chapter, I argue that if a country is only as strong as its most underserved citizens, then women in German prisons are likely one of the most appropriate markers of Germany's success—or failure, as the case may be.

Additionally, this chapter provides the crucial last piece of this thesis' overall argument by demonstrating the results of Unification and the uniqueness of the contemporary German women's prison system. This system, built by capitalism and communism, then taken over and reformed by capitalism, has nevertheless been influenced by these two economic systems and their effects on women, society, and views on crime and punishment.

a. Method and Structure

The intention of this chapter is to bring the reader up to date on women's prisons in contemporary Germany, a task that both brings a more immediate relevance to this

project on the whole, as well as illuminates the consequences and outcomes of Unification in the realm of women's incarceration. I argue that the positionality of incarcerated women in Germany, while much improved and better recognized than in years past, is still one that is somewhat marginalized and underserved. The plight of incarcerated women in Germany reveals the extent to which the strength of Germany's social market economy still fails or succeeds to reach its most underserved and marginalized citizens.

To this end, the chapter begins with a description of post-Unification Germany's incarceration ideology, which focuses primarily on resocialization and rehabilitation. This helps ground the rest of the chapter in the current moment and provides a framework through which to view the actual conditions in women's prisons today. The discrepancies between ideological goals and actual practices are telling in and of themselves: to what extent do economic, political, and social conditions enable or prevent intended outcomes? A theme throughout the chapter is that of programs and policies that reflect this ideology, but that are hindered by Germany's increasingly liberalized fiscal policy.

Next, the chapter presents information on the current state of Germany's women's prisons and analyzes the strengths and weaknesses of such a system. Many of the strengths and weaknesses overlap; this is indicative of the complex nature of incarceration in Germany, and of the lack of an absolute scale by which to evaluate these practices. As a continuation of this topic, the chapter includes information on the regional variations and racial demographics of women's prisons in the country, utilizing a comparison of the most populous states in the Eastern and Western halves of Germany.

Additionally, the chapter provides an overview and analysis of the current work being done within Germany and Europe towards the improvement of incarceration practices, along with descriptions of pop cultural representations of incarcerated and 'criminal' women in Germany today in order to further contextualize crime and, specifically, women's criminality, within the German national consciousness. These two aspects of public perceptions and attitudes towards women's prisons present a holistic view of Germany's relationship with its incarcerated women; once again, it is a very complex relationship, and reveals many inconsistencies and discrepancies in the role of prison and incarcerated women in the German cultural, political, social, and economic landscape. The chapter concludes with an exploration of what these current incarceration practices reveal about womanhood in Germany today, and how femininity and crime are still seen as being at odds with one another. This brings up questions about the state of gender and womanhood in Germany today, and of the ways in which crime is still normalized as “masculine” behavior.

This chapter primarily utilizes recent studies and reports from Germany and Europe that analyze specific elements of women's incarceration. While there are many such studies, none have succeeded in critically examining criminal legal practices in the context of current German incarceration ideology: one that claims to focus on resocialization and rehabilitation. Nor do any of these studies even attempt to draw connections between prison and crime and the larger German political, social, and economic climate, as this thesis aims to do.

II. Incarceration Ideology and Goals

There are two main goals of incarceration in Germany: resocialization of the individual, and protection of the public from further crimes committed by the individual in question (Heinz, 4). The basis for this resocialization objective "is not explicitly mentioned in the Constitution, yet can be inferred from the judgments of the Federal Constitutional Court as an inalienable constitutional principle derived from human dignity and the principle of a welfare state" (Dünkel et al. 2005, 13). This commitment to a welfare state is an essential component of the German psyche, and sets the country apart from other capitalist nations—the United States, for example. Within Europe, this emphasis on resocialization seems to be found primarily in eastern, previously Soviet states. In addition to Germany, "Slovenia, Croatia and Lithuania.... clearly promote the concept of resocialization as the only aim of imprisonment. Even though the laws do not expressly use the term of resocialization, it is apparent that all aim to re-integrate the prisoners" (Dünkel et al. 2005, 14). Thus, it seems likely that these goals are remnants of the former East Germany and that there has been a certain amount of socialist influence spread from East Germany into West Germany since Unification. One should keep in mind, however, that West Germany—even before Unification—was not a truly liberal capitalist nation; there were, even then, elements of social welfare in policy and national opinion. Resocialization as an aim of prisons existed in both East and West Germany prior to Unification, but it has gained much greater prominence in recent years, likely as a result of this socialist influence.

In addition to resocialization, rehabilitation, and reintegration, the "final aim is the

detention and custody of prisoners, which corresponds to the role of imprisonment in Germany as a provider of security" (Dünkel et al. 2005, 14). The safety of society is of concern, yet the fact that security is of secondary importance to the German penal system indicates that reintegration of incarcerated individuals is seen as more beneficial to society in most cases. Though many might see this as also being a remnant of formerly totalitarian East German prisons—institutions that certainly contained a number of contradictions—the pouring of West German resources into security increases in these Eastern prisons directly after Unification complicates this assumption. It is possible, then, to conclude that such an emphasis on security is largely a result of Western influence, and that it has become a more central part of official incarceration ideology in the Eastern states only since Unification and the Western officials' securitizing renovations of Eastern prisons.

What is missing, then, from official stated goals of the German criminal legal system is an attempt at retribution or punishment. Though in reality an element of this likely does exist—German prisons, while much more comfortable and resembling of the outside world than many other western prisons, are by no means luxurious—its exclusion from official criminal discourse is certainly of significance. However, this brings up some critical questions about the philosophical nature of punishment: if retribution and punishment are not (stated) goals of incarceration, then what is the logic behind incarcerating non-violent offenders? It seems that a system that truly had no regard for penalizing the perpetrators of crime would have little to no interest in placing people into forced custody at all. Unless Germany is following the model of many addiction

rehabilitation centers, in which a central component of an individual's recovery is predicated on the removal of him or her from their normal environment for a period of time, there is likely still an underlying motivation to punish people for their actions.[4]

One more important point is the explicit connection between capitalism and incarceration. Unlike many of its western capitalist counterparts, the relationship between private corporate interests and prisons in Germany is much more obscure. All correctional institutions in Germany—including closed prisons, open prisons, and mother-child institutions "are run by the state. It is a strongly held principle that the state should never give up its monopoly in the use of force and the control and treatment of deviance. Hence, examples of prison privatization offered by the United States, the UK and France, for the time being at least, are regarded with suspicion" (Messner 1995, 133). This public ownership of all prisons—for men and women, open and closed—means that private capitalist interests have only a very minor influence on the building and administering of German prisons. This resistance to privatization is also likely a lasting effect of communism, and has had the positive outcome of reducing corporate lobbying influence over incarceration and sentencing legislation.

III. Profile of Women, Crime, and Incarceration in Germany

As of 2008, women made up 4,089, or 5.4% of the 75,719 incarcerated individuals in Germany (Fair 2008, 98). In 2005, women had constituted just 5.1% of the German prison population; between 2005 and 2008, there was therefore not only a numerical increase in incarcerated women, but also a proportional increase (Dünkel et al.

[4] Interestingly, the German word for crime is *Straftat*, which literally means "punishable act".

2005, 19). Still, in the last several years, incarceration rates for women in Germany have hovered around 10 incarcerated women per every 100,000 women in the general population (Dünkel et al. 2005, 19). Women's rates of court-mandated prosecution and incarceration are not, however, in full alignment with their involvement in criminal activity: while 23% of people who commit crime in Germany are female, only 15% of people who are convicted of crimes in Germany are female, and, as previously stated, only around 5% of the incarcerated population in Germany is female (Grote-Kux 2007, 2). This discrepancy is likely due to a variety of factors, the primary reason being that property and drug crimes, which women in Germany are most often convicted of, generally carry very short sentences. Under German law, these short sentences are often commuted to fines and probation, in which cases women are able to avoid incarceration altogether—and are therefore denied access to many of the vocational, educational, and mental health opportunities that criminal legal institutions have available to incarcerated women.

A large percentage of women incarcerated in Germany are housed in women's wings of men's prisons. In 2006, there were forty-six women's units in men's prisons throughout Germany, with an additional six institutions strictly for women (Grote-Kux 2007, 4). As of 2007, there were a total of seven women's prisons throughout Germany, as well as many more units specifically for women within men's prisons (Universität Bremen 2007). Until 2005, there was even a co-ed prison in Hamburg that had little to no restrictions separating men and women (Universität Bremen 2007). Out of the approximately 4,200 spaces available for incarcerated women, nearly 700 are located in

open prisons; ninety-three spaces, meanwhile, are located in mother-child facilities (Grote-Kux 2007, 4). The majority of women incarcerated in Germany are serving time for non-violent offenses. In a sizable scientific sample of incarcerated women in Germany, 36.0% were incarcerated for property crimes, 28.8% were incarcerated for drug offenses, 14.4% were incarcerated for robbery, 9.0% were incarcerated for homicide, 7.2% were incarcerated for assault, and 4.5% were incarcerated for other offenses (Fair 2008, 99 & Dünkel et al. 2005, 23). By another criminal legal scholar's estimate, most of the crimes committed by women in Germany are property crimes, drug crimes, child abuse and neglect, immigration crimes, and homicide (Grote-Kux 2007, 3). Either way, it is clear that the vast majority of women are serving time for non-violent offenses, and that a large number of these women are even incarcerated for arguably victimless illicit substance infractions. This reflects the economic desperation of many of these women prior to their incarceration, and points to the tardiness of the German government's intervention in their lives. In this way, it exposes the inefficacy of Germany's welfare programs; while they may help a broad swath of poor or unemployed Germans, they are failing to reach the most underprivileged and overburdened women, who in turn must engage in criminal activity in order to survive.

In addition to the economic desperation present in many incarcerated women's lives, drug addiction plays a large role in their experiences—both inside and outside of the prison space. Drug use and abuse in prison is dangerously high in Germany and across Europe; in European prisons, 50% of women have a history of drug abuse (Zurhold et al. 2011, 50). Among incarcerated women in Germany, the majority had

> started their drug careers as early as 13 and 14 years of age –many have used drugs for 10 years or more. Other research in Germany had revealed connections between drug career and poverty, violence, auto-aggression and a lack of resources.... While 18% of women prisoners are there due to the use or trafficking of drugs, it seems that many more consumed drugs and—usually imprisoned for theft—committed actually drug-related crime in order to secure their needs.... About 60-80% of women in prison have a drug problem. (Toth 2005, 12)

This clear connection between economic positionality and participation in the drug trade is further indication that the German welfare system is leaving behind certain women, and the continued increase in incarceration seems to show that this negligence is growing. Additionally, this problem is specific to women: drug use among the female prison population is much higher than that of the male prison population—between 35 and 70%, as compared to between 10 and 40% (Fair 2008, 100). This disparity has some alarming implications. First, that the underlying reasons for women's greater drug use in prison are not being addressed, and that incarceration likely exacerbates them. Second, the fact that many women struggle with these addictions leads to more restrictive prison experiences and fewer opportunities for job training and family interactions, since "prisoners with drug or alcohol problems will not be put in open prisons" (Fair 2008, 100). While these policies might have been enacted with the intent of reducing access to illicit substances for those who use and abuse them, the result is a decrease in the resocializing effects of incarceration and of the maintenance of supportive social and familial relationships.

The role of women as victims is still prevalent even for those in prison. Among incarcerated women in Germany, rates of physical, sexual, and emotional abuse histories are high. In one prison, approximately 50-75% had been sexually abused in their lives

before prison (Fair 2008, 100). This, again, points to a failure of the German government: the legal system steps in too late for these women, and is thus unable to prevent such abuse or to punish the perpetrators before these women enter into cycles of abuse and crime. Fortunately, the prisons seem equipped to handle these women's histories, as treatment needs of the women inside reflect many of the traumas they have experienced: in one study of incarcerated women in Germany who were undergoing treatment while in prison, "24.6% were being treated for drug abuse, 19.3% were being treated for psychological problems, and 4.5% were being treated for medicaments (pharmaceutical drug abuse), and 0.9% were being treated for alcohol abuse" (Dünkel et al. 2005, 23). It is promising that this treatment is generally available for women, as this fact aligns these prisons with their stated goal of rehabilitation.

In the GDR prior to Unification, there was only a minor correlation between education and incarceration among women; the socialist distribution of labor and wealth lessened the impact of undereducation—and tended to prevent it in the first place. This correlation was larger in the FRG before Unification, and continues to play a large role in crime and incarceration in Germany today. A large proportion of incarcerated women are undereducated: while about 62% finished their primary schooling after attending for 9-10 years, only 7% had actually graduated from *Gymnasium* with an Abitur, the test required to continue on to study at a university in Germany. Meanwhile, nearly 25% had attended school for less than 8-9 years and had not finished their education (Dünkel et al. 2005, 21). While the German education system today has an internationally acclaimed apprenticeship system and does a very effective job of educating its youth and preparing

them for the labor market, incarcerated women seem to have fallen through the cracks—years before their involvement in the penal system. This neglected positionality is perhaps related to the disenfranchisement of many women throughout the Unification period, as described in the previous chapter; though many feminist groups in the late 1980s and early 1990s had hoped to enact legislation that would both directly and indirectly address the needs of Germany's most vulnerable women, the exclusion of these activist groups from the capitalist political sphere delayed or precluded many of this legislation from being pushed through. This was a large component of the pervasive disadvantaging of women throughout the Unification process, and though improvements certainly seem to have been made in the overall social, political, and economic welfare of women in Germany since that time, incarcerated women have not yet received adequate support in order to thrive in the contemporary state.

IV. Strengths and Weaknesses of the System

a. Strengths

1. Focus on Rehabilitation and Resocialization

Perhaps the most positive facet of German prisons today is this focus on rehabilitation and resocialization. These objectives, while inspired by the social welfare ideologies of modern Germany (an ideology that was partly influenced by East Germany), are supported by several practical aspects of German prisons. One such aspect that particularly enables resocialization to occur is the size of each institution:

> German prisons are generally much smaller. Only 10 German prisons have more than 500 inmates and none

> have more than 1,200 inmates." Additionally, for both men and women, adults and juveniles, "there are no military-style boot camps...At times when there has been a serious crime committed by a juvenile in Germany, or during times of an election, such discussions have arisen. But the move to develop boot camps has never materialized. (Dammer 2011, 1023)

The commitment to smaller prisons that do not aim to indoctrinate women into militaristic attitudes or force them to perform exhausting, rote tasks, is essential to the model of incarceration that was present in both East and West Germany prior to Unification: that a period of incarceration be minimally punitive, and instead focus on building useful skills for successful reintegration upon release. This focus on skill- and resumé-building job training and experience remains central to the German prison experience today. It is "typical in Germany for inmates to have some form of work or program to occupy their time in a productive manner. In fact, in some German correctional facilities, all (100%) of the inmates participate in some work or productive programming" (Dammer 2011, 1024). Women are not sitting idly in prison for years at a time; their time, while generally kept to a few short months, is generally spent gaining productive skills in order to successfully reenter society. Of course, just as East and West German vocational training in prison reflected their respective ideologies of womanhood and female labor, today's training is indicative of current national ideals of women's labor and aims to produce the optimal German woman upon release.

2. Administrative Support and Accountability

There are a variety of laws governing women's incarceration. The Prison Act, of course, is applicable to women's prisons as well as men's. Additionally, there are certain

provisions within the Prison Act that specifically apply to women's incarceration, regulating gender separation, pregnancy, birth, motherhood, maternity rights, birth registration and announcement, mother and child programs, and preventative detention (Grote-Kux 2007, 3). The following measures have already been implemented, or are in the process of being implemented in German women's prisons: consistent review and evaluation of laws and their implementation through a gendered lens, the placement of highly qualified and well-educated personnel in women's prisons, the building of rehabilitative programs for incarcerated women, the creation of outpatient care centers, more extensive networking with outside sectors, the creation of more coherent supervision and support structures, a gendered restructuring of therapy and treatment opportunities, the development of administrative safety provisions in favor of social security, the placing of women in programs that allow for the highest possible level of independence, minimum standards for women's prisons, an expansion of the capacity of open prisons for women, an increase in mother-child programs, and greater freedom for incarcerated mothers (Grote-Kux 2007, 8-9). These are all extremely positive steps, and reflect a relatively recently heightened awareness of the gendered needs of women in social and governmental institutions throughout Europe. This awareness has trickled down—though wealthy women in Germany have long had their needs met or at least partially attended to, poor and incarcerated women, as we have seen, have been administratively and legislatively underserved. These new programs and initiatives show an increase in attention to their unique needs in a way that is both care- and social-welfare-based.

3. Vocational and Educational Opportunities

In today's capitalist Germany, “women still earn less, are more likely to work part time and less likely to hold top jobs” (Bennhold 2012). To some extent, prison labor reflects this reality. Job opportunities for incarcerated women in Germany are less available, less abundant, and less compensated than those for men in German prisons—yet they have nevertheless been heralded as better than those for women in many other European prisons, and are certainly better than they were in West Germany before Unification. Women in German prisons gain “benefits from the job centre (e.g. unemployment benefits) or social welfare benefits” (Toth 2005, 60). While in many European prisons, “the range of work available for women inmates was predominantly unskilled and focused on traditional women’s work: mostly on housekeeping jobs (cooking, cleaning, laundry), assembly-line work in light industry or packing,” Germany stood out as offering a much wider range of vocational opportunities for incarcerated women (Toth 2005, 39). In Germany, the promotion of these varied vocational skills “proved to be very useful for reintegration: women with such a training and experience gained in prison managed to find work after release” (Toth 2005, 42). In one German prison in a former West German state, a program “is carried out through which skills and educational background of the women are assessed and further development needs are identified for the duration of imprisonment – which also facilitates building bridges between internal programs and employment” (Toth 2005, 46). In this way, reintegration is further emphasized and concrete connections are made between job training in the prison and employment upon release. Additionally, women (and men) who worked in prison are

eligible for unemployment benefits upon release, a policy that seems to recognize and take into account the realities of reintegration, giving formerly incarcerated individuals a greater chance at eventual successful resocialization (Toth 2005, 56). It should be noted, however, that current unemployment rates are not particularly high in Germany. In fact, while women's unemployment in Germany is 5.4%, for men it is 6.0% (Eurostat 2012). This bodes well for women recently released from prison, and is perhaps partly due to the successful reintegration efforts of the German criminal legal system. It is also a sign that German women are interested in and able to find work in the country. This trend is divided along East-West lines, however. East German women today continue to be more committed to working outside of the home than their West German counterparts, and "exhibit a 'stubbornness' in altering their employment patterns" (Matysiak and Steinmetz 2008, 332). It is perhaps in part due to this stubbornness, as well as to remaining socialist attitudes in many German employers that cause them to favor women's employment, that women who do want to work outside of the home are generally able to do so.

German prisons have also shown a dedication to improving the literacy and education levels of their incarcerated women. In a European study of women's prisons, "providing primary education to all prisoners and focusing especially on the elimination of illiteracy was reflected in all country reports as a priority for education in prisons.... A more flexible, so-called modular approach to education was applied in some prisons in Germany.... which enables people with short sentences to start certain modules at flexible times, and if necessary, proceed on other modules after release" (Toth 2005, 42). Such programs have proven to be effective at integrating the educational process into the lives

of incarcerated women—lives that are often more complicated and transient than those of women in Germany who have never entered the criminal legal system. In addition to this flexible module system, a variety of practical courses, such as technology/computer courses, are available for women in prison. This commitment to these sorts of educational programs in prison is something that has vastly improved from the days of pre-Unification prisons in both East and West Germany, when a "socialist" reeducation dominated programs in the former and domestic training was primarily accessible in the latter.

4. Human Rights

Human rights groups at both the national and European level have set certain standards advising prison administrators' policy- and decision-making, though enforcement is chronically lacking and implementation is therefore inconsistent. When making new criminal legal policy in any European country, "the attention of the legislator is likely to be focused particularly on the European Prison Rules (EPR).... An important general principle of the EPR is that 'prison conditions that infringe prisoners' human rights are not justified by lack of resources'" (Dünkel 2007, 359). These prison rules seem to incorporate socialist and capitalist elements of incarceration, though the majority seem to be Western-based. In some northern European countries, so-called principles of normality, or in the case of Germany, alignment, play a large role in how prisons operate. Such principles state "that the conditions of living in prison should approximate as far as is possible those of living in freedom" (Dünkel et al. 2005, 16). For many incarcerated women, however, this is a complicated objective, as many lived in conditions of poverty

and drug use prior to their incarceration. Still, this concept of “freedom within the prison” is one that has led to many successful open prisons in Germany. These open prisons and the comprehensive reintegration that they promote are perhaps the greatest contributions to the unified criminal legal system that West Germany has made.

5. Social Services Inside

Social services inside German prisons are an integral part of the resocializing goals of the system, and women's prisons are no exception. For women's prisons, therapy is particularly essential, as the majority of incarcerated women in Germany have histories of abuse, addiction, and mental health issues. On average, a co-ed prison with around “500 inmates has four working psychologists. If it is a special therapeutic prison, then there are usually many more—one for every 15 inmates and, in juvenile prisons, one for every 50 inmates” (Dammer 2011, 1022). Therapy is approached from a medical standpoint in the prisons, and is generally quite effective in this sense:

> The prison’s impact on health condition is an area where according to most reports, a differentiation has to be made between various groups of women. For some women who suffered from poor health either due to lack of resources/ insurance or led a lifestyle that destroyed their health (e.g. drug users), the prison was found to offer health services and, potentially, treatment that led to an improvement or stabilisation of their health condition. In the German research, the majority of the women who suffered from addiction stated that their health condition improved during imprisonment, and the overwhelming majority of women with addictions believed that imprisonment had a controlling and limiting affect on drug-taking. (Toth 2005, 29)

Though this is a rather glowing report of German prisons, statistics showing rates of drug use in prison seem to contradict the claim that most incarcerated women found that

prison time reduced their drug abuse. The offering of no-cost, effective physical and mental health care for incarcerated women is, however, a very positive step, and seems to reflect a distinctive socialist attitude towards such social services.

6. Contact with Outside World

Maintaining contact with the outside world is of vital importance to incarcerated individuals, particularly women, who tend to be particularly interdependent for survival in western capitalist societies. German prisons seem to recognize this to a considerable degree; through prison leave and somewhat frequent family visits, social and familial relationships do not suffer as greatly as in more isolated prison systems in other countries. In both men's and women's prisons in Germany, “prisoners have twenty-one days of leave per year and extra leave may be granted for special reasons including family events. Prisoners from the open prison in Freistaat Thüringen can go out to visit family at weekends” (Fair 2008, 99). In addition to personal leave,

> women in some cases had access to programmed leaves, during which, accompanied by prison personnel, they could familiarise themselves with the environment or engage in activities with organisations. Short leaves—without supervision—in order to facilitate women’s gradual readjustment, as well as the reestablishment of social contacts and practical preparation of release, are also available in most countries. Day-releases practised in Germany.... were considered to be very useful by the women to maintain social contacts, visit authorities, or start organising other aspects of life after release. (Toth 2005, 48)

Widespread implementation of these productive and beneficial leaves within women's prisons has been fairly recent, and seems to have originated in West Germany's men's

prisons. The use of day-releases is particularly successful in facilitating smooth and long-lasting reintegration upon release. Ultimately, this practice seems to effectively keep women in contact with families, despite the placement of many women's facilities far away from urban areas where families often live. A majority of women incarcerated in German prisons "had regular contact with their families, either through visitors or one-day weekend visits home" (Toth 2005, 25). The maintenance of familial and other relationships is vital to any care-based system that values interdependence and relationality, as Germany's social welfare institutions generally at least purport themselves to do.

7. Positive Relationships with Personnel

Another success seen by Germany's women's prisons can be seen in the relatively positive relationships that many incarcerated women perceive to have with prison administrators and staff:

> Women tend to accept the disciplinary role of prison and most of them aim at building workable relationships with personnel – it is apparently a key condition for survival. In many cases, women talked rather appreciatively about personnel and emphasised that prison staff reacts the same way to prisoners as they approach them. In particular, the German research reflected rather positive relationships between women inmates and personnel—as reported, women felt that staff members were available and helpful, communication was open and based on partnership. In a German prison efforts were made to integrate women's opinions into the shaping of prison life. (Toth 2005, 28-29)

These generally open and mutually respectful working relationships between incarcerated women and prison staff members, while far from perfect, have been shown to be an invaluable aspect of successful reintegration, as women in German prisons are able to

express their problems to and seek help from staff members, educators, and guards within the prisons (Toth 2005, 46). Specifically, “the co-operation with probation and ‘external advice services’ worked well according to most agents – although some pointed to the consequences of budget cuts in enabling less frequent visits to prisons, and interviewed women confirmed that probation officers are overloaded by case numbers as high as 200. Yet, a number of interviewed women in Germany believed that it was possible to get help in prison and secure access to flats and jobs” (Toth 2005, 50-51). Budget cuts, as we will see later, seem to be a major factor in decreasing the effectiveness of certain aspects of the German prison system, even those with the most potential for success.

8. Reintegration

What many of these positive aspects point to is the relative success of German prisons with meeting their primary goal of incarceration: reintegration. This process begins in the prison, with decreasing security and increasing independence as release approaches. This

> support in preparing for release was evaluated to be better in Germany by the interviewed women, especially women who were released from the social-therapeutical institution appraised positively the help received. They emphasized the individual attention received from therapists and social workers as well as the gradual release from the institute. In the past seven years the Berlin institute has only reported about one woman’s return to prison. (Toth 2005, 46)

Low recidivism rates are perhaps the best marker of a resocialization-oriented prison's success, and Germany seems to be particularly strong in this regard.

One of the main components of the state's resocialization of formerly incarcerated women is through probationary supervision and guidance. The supervision element

seems to often be more emphasized than that of guidance, however. Probation officers, with whom German women are only occasionally in contact, are thought of "by some of the women in Germany.... as a control function primarily" (Toth 2005, 55). It seems that this infrequent contact shows a lack of concrete support by these officials, who are not as active in the reintegration process as they would perhaps need to be in order to be an effective resource. Though this irregularity seems to be of concern to some, it does not appear to render the entire probation system completely ineffectual. Studies "indicate that it is not impossible to reconcile the control function of probation officers with an effective support function: at least some of the interviewed women considered probation agents to be useful as sources of information and yet others developed a closer, trusting relationship with their probation officers" (Toth 2005, 63). Additionally, the lower frequency with which the officers check up on the women could have a very positive effect on their independence and sense of self-reliance.

Housing support is of vital importance to women working to rebuild their lives after a prison sentence. Among other European states,

> Germany should be mentioned as probably one of the few positive examples in housing solutions: a regulation ensures that the rent of the imprisoned is paid for one year, and also, housing departments seem to offer tangible help for those released in finding affordable accommodation. Several women in Germany reported that their flats were maintained during imprisonment or that they found flats quickly after their release with the help of social services, NGOs or the housing department. (Toth 2005, 57)

Though budget cuts were again mentioned as endangering the extent to which these services are able to be carried out, they seemed nevertheless to be generally well-liked by

formerly incarcerated women.

A final difficulty of reintegration, but one that the German system has tried to quell, is difficulty in finding work due to stigmatization. This can be “a real difficulty, although the German regulations require the applicant to inform the employer only in certain cases about their record” (Toth 2005, 59). These limitations on the extent to which employers are permitted to inquire about a woman's criminal record are vital for women's ability to become gainfully employed upon release.

9. Programs for Incarcerated Mothers

By far one of the most promising aspects of Germany's criminal legal system for women is the prevalence of mother-child programs throughout the country. This is a central issue to the lives of incarcerated women in Germany; many of them are mothers of minor children, with 37% of these children living with their fathers, 32% with grandparents, and 17% with adoptive parents (Dünkel et al. 2005, 22). The fact that a large proportion of these children still live with their fathers seems to indicate both a flexible parental role between men and women in Germany, as well as the success of mother-child programs at minimizing the disruption of families during the mother's incarceration. Motherhood in Germany is highly esteemed, though support for mothers outside of prison has declined considerably since Unification—particularly for East German women, who had previously had reliable, free childcare and a plethora of other governmental benefits. Differences remain between East and West Germany's childcare options and motherhood trends, however. One study on women's employment discrepancies between East and West Germany in recent years noted that East German

women have retained many of their socialist attitudes about women working outside of the home; as a result, they are less likely to leave the workforce after marriage or childbearing, and support regional childcare policies. For this reason, they "are still provided with far better childcare opportunities than their West German counterparts" (Matysiak and Steinmetz 2008, 334). Even with such programs still in place for some women, birth rates across Germany are incredibly low, and the lack of social and governmental support for mothers is one of the primary causes. For women in prison, programs that assist or enable their ability to provide care for their children are especially vital, though they by no means make up for the lack of comprehensive motherhood support that these women are offered upon release.

There are a total of six mother-child prison housing programs throughout Germany, primarily in the open prisons (Junker 2010, 262). These housing programs are considered to be some of the most progressive and comprehensive in the world, in part because they have been set up to accommodate women of all security levels (Kauffman 2001, 64). Eight of the German states offer mother-infant units, and in many cases, children as old as six years old are allowed to live with their mothers in open prisons. The regulating of such programs varies throughout the country, as individual states are responsible for their administration (as they are for the administration of prisons in general) (Fair 2008, 99). One of the strengths of such programs is the availability of specialized staff members who help women learn or improve their childcare skills. Pregnant women and women with infants are sent to these units so that they can begin such childcare training from the beginning of their child's life. Though not all women are

eligible for such programs, even

> high-security women who must remain within the confines of the prison's ancient walls are permitted to keep children up to age 3, though, in practice, most are under 2. Mothers and children reside in a separate building on the prison grounds known as the 'closed mother-child house'. Babies remain with their mothers during the day, but toddlers go to the 'open mother-child house' or neighborhood preschool while their mothers work at the prison. (Kauffman 2001, 64)

The widespread application of such programs seems to be particularly positive, as it gives a broad range of women the opportunity to form and maintain relationships with their children—relationships from which both the mothers and children benefit. For women who are considered to be a low security risk, there are open mother-child houses. In such cases, “the large wall that surrounds the prison has been indented on one side and in that space is nestled the 'open house,' which faces the surrounding neighborhood, rather than the prison” (Kauffman 2001, 64). This arrangement allows both mother and child to live in a way that theoretically most resembles a non-prison environment. Additionally, children are involved in playtime, preschool, and field trips that foster their early development in natural and productive ways.

In addition to mother-child units, day-leaves from the prison are quite helpful in allowing mothers to maintain contact with their children. Germany recognizes motherhood as a legitimate occupation, and thus allows these home visits as part of their work-release programs:

> On the radical premise that parenting and housework are as valuable labor as working in a factory or fast-food establishment, mothers who are eligible for work release can leave the prison daily to work for their own families.

> They must rise at 5 a.m. and take public transportation to their children's homes in time to roust them out of bed for school. Once the children are fed, clothed and out the door, mothers are responsible for housekeeping, shopping, and general household management.... When their children return from school, the mothers are responsible for their supervision, doctor's appointments, cooking, homework and all the myriad tasks that consume parents' time and energy. Once their children are tucked into bed, the mothers leave them in the care of another adult family member or caretaker and return to the prison to sleep. (Kauffman 2001, 64)

This woman-friendly conception of work, though apparently not available for men, acknowledges the essential caring roles that wives and/or mothers often play in their households. Additionally, this practice is in many cases also available to women who have ill family members—therefore recognizing that women often are responsible for the care of more than just their children (Toth 2005, 26). Whether or not these practices keep women limited to certain prescribed feminine roles seems less important, in this situation, than the fact that they reflect the vital role that many women played in their families prior to their incarceration, and that they allow them to continue to support their children and relatives in this way.

b. Weaknesses

Due in large part to the unique incorporation of both capitalist and communist approaches to incarceration, German women's prisons today have developed into a generally successful system that promotes reintegration and resocialization. Though this criminal legal system seems to be one of the best in the world in many respects, it is certainly not without fault, even in areas where it ranks well relative to other western

countries' systems. The following problems were cited as affecting women's prisons in Germany: unnecessarily high security measures, no awareness of women's institutions as being independent facilities, being far removed from home and community, a large number of individuals with drug addictions, a large number of individuals with histories of sexual and physical abuse, a large number of individuals with physical and psychological issues, and a lack of education and job-training opportunities (Grote-Kux 2007, 5).

1. Substance Abuse

A striking issue in the German women's prisons is the rampant drug use. According to German criminologist Theresia Höynck, over half of all women in German prisons have serious drug habits or addictions. In every prison, drugs are being smoked, and in many, there is also heavy use of needle-injected drugs. Some of these prisons have recognized the issue and have needle exchange programs in place to combat HIV and Hepatitis transmission ("Keine Veranstaltung von Klosterschülerinnen" 2002). Despite certain efforts to combat the issue, such as these needle exchange programs, a large number of women in Germany who want and need treatment for substance abuse and other psychological issues while in prison are not being provided this treatment (Dünkel et al. 2005, 26). Furthermore, "in some German prisons there is not even a drug-free wing" (Zurhold et al. 2011, 51). This shows an inability by prison staff and administrators to truly understand and address the epidemic. Sadly, the easy availability of drugs in the prisons is in many ways simply a symptom of the fact that many incarcerated women had drug habits and/or dependencies before (and, unfortunately, also after) coming to prison,

and where there is a strong demand for illicit substances, a supply is almost certain to follow.

2. Distance from Home and Community

The relatively small number of women incarcerated in Germany proves to be an issue when considering the proximity of prisons to the homes and families of incarcerated women. According to German incarceration philosophy, "one of the principles of imprisonment is to imprison prisoners as close to their homes as possible," though this is often not possible, due to the fact that such a minority population can be placed in only a very small number of institutions throughout the country (Fair 2008, 100). In this way, women are further marginalized by incarceration than their male counterparts. While the small numbers of women in prisons is partly to blame for this dislocation, it has been further exacerbated by the decision to build several women's prisons far "from urban centres, sometimes in locations not accessible by public transport and not offering opportunities for work outside the prison, social contacts etc. This is highly problematic in case of low-security regimes, or open regimes – since such a location fully contradicts the objective of reintegration emphasised in cases of open or light regimes" (Toth 2005, 33). This is a prime example of a concept—open prisons that facilitate smoother reintegration—whose implementation has been hindered by the realities of the system. At best, poor planning and the challenge presented by relatively small numbers of incarcerated women are to blame. At worst, a deliberate obstruction of resocialization ideology is at work. In light of the myriad other programs that have been successfully implemented in the interest of resocializing, the former seems more likely. It is hard to

argue that more prisons would be a positive development, but German prison authorities and legislators should be aware of the practical inefficacies of open women's prisons and work to find creative solutions to the problem.

3. Poor Job Opportunities

In addition to this dislocation from urban centers and from their available job opportunities exist other barriers to women in German prisons finding productive and well-compensated work, both during and after their incarceration, with the result of there being far fewer educational and job training opportunities for women in prison than for men (“Keine Veranstaltung von Klosterschülerinnen” 2002). As women's unemployment rate outside of prison is .6% lower than men's, this seems to be a problem particular to prisons (Eurostat 2012). Short sentences play a large role in this inequality: half of women in German prisons are serving less than nine months, reducing the timespan in which to provide training and pre-release job skill-building. Additionally, many women inside lack previous work experience—at least in paid workplaces outside of the home. For prisons that do not offer women the chance to be compensated for their duties as mother and/or wife, this can prove to be a problem for job placement. And finally, the high number of instances of drug addiction in women's prisons or wings is a clear hindrance to successful work. Occupational therapy, a potential solution to many of these problems, is now less available due to budget cuts (Toth 2005, 40). Also at play is the tension between traditional domestic tasks and paid labor. While mothering and other care-based occupations are important and reflect the family role of many incarcerated

women, there is a fine line between validating the value of this work and keeping women limited to it. While German prisons seem to offer more opportunities for skilled and varied labor than many of their European neighbors, “the standard jobs also in Germany continued to be cleaning and assembly line jobs”—which serve neither the women's interests nor their families' (Toth 2005, 39).

Regardless of the type of work women in prison are doing, it is still chronically underpaid (Toth 2005, 40). Incarcerated women's wages are low to begin with, but are stretched even thinner once taxes and social security, and in some cases fees for prison upkeep, are paid. With any money left over, women may buy basic toiletries or other necessities in the prison store or send money home to their families; “thus, women cannot make savings from such wages for their life after release.... Women who already struggled with indebtedness are not able to stabilise their situation and may accumulate further debts through not paying interests” (Toth 2005, 41). The issue of exploitation—and of an inconsistency with the supposed reintegration goal of the prisons—is particularly problematic in light of this barely compensated labor. Furthermore, these issues do not appear to affect German women on the whole, indicating a particular vulnerability of incarcerated women, perhaps stemming from their relative invisibility inside the prison space. As with the job opportunities for women in prisons in East and West before Unification, working opportunities and conditions for women in German prisons today lag behind or are simply out of touch with the true realities of women's labor outside of prison.

4. Budget Cuts

Budget cuts are a running theme throughout many of the critiques of the German prison system, and they seem particularly to affect women in German prisons. Though quite “comprehensive and numerous programs are available, budget cuts and lack of personnel cause permanent problems in the actual delivery of such programs” (Toth 2005, 52). So-called social training courses and vocational training courses are thus often times combined, leaving both skill sets somewhat neglected (Toth 2005, 50). Proper job opportunities and placement have also suffered from such cuts. Many women in closed prisons who are eligible for daytime work-release are being denied such possibilities due to a lack of staff supervision and other resources (Toth 2005, 40).

Such inadequacies in staffing are correlated with an increase in incarcerated women. With this increase in prison population—and without an increase in funding and resources—chronic overcrowding has occurred. Though prisons were initially built with each cell having the capacity for one person, this has long since not been the case, even now in women's prisons, where overcrowding has become a major issue (“Keine Veranstaltung Von Klosterschülerinnen” 2002). This displays a certain level of inattention to the current state of women's incarceration in Germany by lawmakers and prison administrators.

5. Women's Wings of Men's Prisons

It is widely believed that the relative lack of independent women's prisons—that is, those that are not simply a wing of a men's or co-ed prison—is the root, or at least a contributing factor, in many of the issues facing women incarcerated in Germany today (Toth 2005, 39). This issue affects not only the 65% of incarcerated women in Germany

who are housed in such wings, but also reduces resource distribution for the remainder of women who are housed in their own separate institutions (Grote-Kux 2007, 4). Women's wings in men's prisons are generally far less able to cater to the specific needs of the women inside: as a result, budget planning, social and vocational training, and lower security standards are forced to be more aligned with the larger men's sections of these prisons (Toth 2005, 35). While this situation is disadvantageous for incarcerated women in Germany, the reason for it is hard to fault: there are simply not enough women in German prisons to warrant the building of numerous new facilities. A solution, it seems, would be to create and utilize more small-scale alternative custody arrangements, such as open prisons and mother-child units, both of which would decrease the number of women being housed in high-security men's prisons.

6. Issues with Release

Despite Germany's best intentions of resocialization,

> many women have reported that they were lost and disoriented in the first few weeks if not months after their release, and experienced even basic life situations often as unmanageable challenges.... Women upon leaving prison have a combination of the following issues to take care of at once: ensure housing, regular income, heal relationships with and provide for children or other dependent family members, and break relationships with drugs, related neighbourhood- and friendship circles.... As some reports pointed out, as soon as they leave prison, women are overburdened with the gravity and combination of these issues to be solved by them at once – an unrealistic expectation that would put a performance pressure on even people with much more resources and support. (Toth 2005, 52-54)

Many women, who experienced a loss of contact with many of their family members and

friends during their incarceration, find that they often have diminished support systems upon release. This is especially difficult when there exists a certain degree of stigmatization for formerly incarcerated women in Germany, making the forging of new support systems difficult (Toth 2005, 52). A society or community that does not fully welcome formerly incarcerated women back into its folds will consistently hinder its prisons' efforts to facilitate this resocialization.

V. Regional and Racial Discrepancies

a. East and West Germany

Though a full analysis of each of the East and West German states would provide thorough information about the differences remaining between the two regions, such an analysis would require extensive and incredibly complex calculations. Instead, it seems quite adequate to look at the two most highly populated states in East and West German, respectively. In East Germany, this is Saxony; in West Germany, it is North Rhine-Westphalia. Saxony is admittedly just a fraction of the size and population of North Rhine-Westphalia, but this is in and of itself a significant marker of the differences between East and West Germany today. While Saxony's mere 4.3 million inhabitants pales in comparison to North Rhine-Westphalia's 18.1 million, it is nevertheless the largest of the five former GDR states.

Saxony has a total of ten correctional institutions, only three of which contain women (Ziegler 2008, 6). Out of a total of 3,641 incarcerated individuals in the state, 268 are women (Justiz in Sachsen). This is 7.4% of the total prison population in the state, an

above-average percentage for Germany. In addition, the total number of incarcerated individuals in Saxony actually dropped significantly—from 4,341 to 3,641—between 1998 and 2008, yet the number of incarcerated women in the state rose from 146 to 248 during that same period. This is a large shift, and seems to signal an increasing propensity towards incarcerating women, despite what looks like a drop in crime (Justiz in Sachsen).

In North Rhine-Westphalia, meanwhile, a total of 37 correctional institutions house 16,800 people. Out of this total prison population in the state, 974 are women—making up only 5.8% of the North Rhine-Westphalia prison population, much closer to the national average than in its Eastern counterpart (Justizministerium NRW 2012). Much of this is likely due to persistently better economic conditions and vocational opportunities in the Western states, and perhaps also to a consistently more 'Western' view of women and their level of involvement in crime—as seen in the FRG's pre-Unification prisons.

b. Foreign Women in German Prisons

Germany's prisons contain a higher proportion of foreign individuals than the country as a whole. The same is true for women's prisons. Europe-wide studies show that around one-third of foreign women in European prisons are incarcerated for drug-related offenses, and while this percentage is comparable to that for all incarcerated women in Germany, the former is made up of a large number of international drug trafficking sentences (Weltgesundheitsorganisation 2009, 19). Statistics for foreign incarcerated women in Germany are difficult to obtain. In North Rhine-Westphalia, 23% of

incarcerated women are non-German (Justizministerium NRW 2012). Corresponding information for Saxony is unfortunately unavailable. More than anything, this seems to speak to the invisibility of this large demographic. Undercounted and underserved, these women are an overrepresented minority in a prison system that makes few concessions for their particular needs.

Many of these unique needs involve the difficulties associated with remaining in touch with family and community members during a period of incarceration, since many foreign women in German prisons are thus detained in a different country than their families, who may be still at home (Toth 2005, 25). Despite the relative ease of communication available to native German women in prison, this service is much less accessible to their foreign counterparts: “the financial burden of long-distance calls from German prisons is.... a difficulty for foreign women in prison” (Toth 2005, 25). This is alarming, as it shows one of the many practical inequalities in programming and services available to the growing population of foreign women in German prisons. The language barrier is another problem facing many foreign women in German prisons. However, this is one that is at least partially addressed in many women's facilities, where German language courses are available for many foreign women (Toth 2005, 43).

The issue of resocialization as it pertains to foreign women in German is particularly complex, however, as their positionality in Germany—outside the prison—is different from that of native German women. Turkish-German women, for example, are a battleground upon which the clash of Islamic and Christian values are fought—though it should be noted that both Germany and Turkey are considered extremely secular, and that

these different values are more cultural than religious. Given this context, for German prisons to resocialize Turkish-German women through the same model of womanhood and citizenship as non-immigrant women in Germany seems highly problematic. It also causes one to question whether the incarceration of immigrant women is part of an attempt by the German government to claim some sort of cultural ownership of or power over women of color and immigrant women in Germany.

VII. Activism and Public Perceptions of Prisons

a. European Standards and Regulations

There is a great deal of collaboration among scholars, researchers, and activists around issues of women's incarceration among several of the states in the European Union. These cooperative efforts have been focused towards both the collection of information as well as the creation and influencing of criminal legal policy in the EU and in individual states. Many of the facts specifically about women's prisons in Germany have been gleaned from inter-European studies, which compare and contrast the situations in each country in order to better understand the strengths and weaknesses of each system, as well as to form beneficial partnerships with one another.

Several attempts—a number of them successful—have been made to create international standards and solutions for the problems occurring in the individual states. There is, of course, the "question of what benefit could international standards be in the face of the heterogeneous legal reality in the various countries," not to mention differing social, economic, and political realities (Dünkel et al. 2005, 9). Yet, "despite the

differences in cultural and socioeconomic background the basic problems in many countries can be compared with one another: overcrowding of prisons and a lack of subsidization and the resulting effects on the furnishing of buildings, the staff situation as well as training and work opportunities" (Dünkel et al. 2005, 9). For incarcerated women specifically, all countries share the reality that this is a small percentage of the population, and that many of the problems specific to them are thus not being given adequate attention (if any at all) (Dünkel et al. 2005, 9). In light of these overarching commonalities, "internationally accepted minimum standards are important—even when they are not legally binding by international law, they can develop moral authority, and can be used in international collaboration as a common basis for legal reforms and for further training programmes, etc." (Dünkel et al. 2005, 9). These standards and guidelines are, however, most effective when contextualized within each state's economic, political, and social realities.

The following represent gender-specific elements of "the UN standards, European Council principles, and CPT (Committee for the Prevention of Torture) standards": a "ban of discrimination and the principle of separation", which states that women may not be discriminated against on the basis of gender, but that men and women must be housed in separation facilities; "protection against abuse," which includes that which is leveled against incarcerated women by both guards and fellow inmates, and which thus mandates that incarcerated women never be left alone with male staff members or guards; "security measures," which emphasize that incarcerated women should not automatically be subject to the same level of security as incarcerated men; mandates that staff members be

particularly sensitive to the special needs of incarcerated women, and that said staff be made up primarily of women; “access to activities,” which describes the extent of useful activities and job opportunities to which women should have access; “contact to the outside world”; “protection of pregnant women/mothers and the interests of the children”; and standards of health care and conditions, which includes regular and unfettered access to feminine hygiene products (Dünkel et al. 2005, 10-12).

Gabrielle Grote-Kux, in advocating for the implementation of European gender-mainstreaming practices in Germany's women's prisons, calls for the following measures to be taken in order to improve the conditions for incarcerated German women: the continuation and extension of transnational collaboration with other women's prisons, including regular meetings with representatives of other regional, national, and European women's prisons (Grote-Kux 2007, 6). Additionally, a number of guiding principles of gender-responsive strategies for addressing the specific needs of women in German prisons have been established. These include the acknowledgment “that gender makes a difference,” and the creation of the following objectives for women's prisons: that the prison environment should be one that is based on “safety, respect, and dignity,” that programs and policies be designed to support and foster relationships with family, children, and other support networks, that sufficient services be available for the treatment of mental health issues and substance abuse, that vocational and educational opportunities for incarcerated women work to improve their socioeconomic status, and that the model for the prison be one that is based on community and collaboration (Dünkel et al. 2005, 39). These guidelines seem care-based and consistent with the aim of

resocialization and rehabilitation in a specifically gendered context.

2. Pop Cultural Representations

There exists a small number of widely varying pop cultural representations of prisons in Germany, particularly of women's prisons. *Hinter Gittern—Der Frauenknast* (Behind Bars—The Women's Prison) was a popular soap opera that ran for sixteen seasons from 1997 until 2007 (*Hinter Gittern—Der Frauenknast*. Drama). The show seems to have been created with the concept of a violent men's prison in mind, without much consideration for the specificities and particularities of women's prisons. This representation of criminal women and incarceration is at odds with the ways in which women are actually treated in the German prison system, and seems to reflect a large disconnect between the public and prisons. Such a disconnect indicates a level of invisibility of incarcerated women, as popular constructions of women in prison must rely on images that are wholly inaccurate.

On the other end of the scale, a more recent mini-documentary series called *PodKnast*, shown primarily on YouTube, presents interviews and reality-television style short episodes (approximately 5-6 minutes each) featuring incarcerated young adults in the West German state of North Rhine-Westphalia. The project began in 2008 and has been filmed in eight different prisons in the state, including the women's prison in Cologne. The issues explored in their videos about women's prisons include those of pregnancy, childbirth, and vacation days (in which the women leave the prison for a day to visit family members). The goal of the series seems to be primarily to educate the public on prison realities, and to reduce much of the stigma surrounding incarceration.

Such a project seems particularly valuable in light of the popularity and singularity of shows like *Hinter Gittern* as representations of German women's prisons.

VII. Womanhood and Incarceration in Germany: The Bigger Picture

A larger question raised by the contemporary German prison system for women is of what the system indicates about the current state of gender and womanhood in Germany. One way to answer this is to explore the various theories for why there has been such an increase in women's incarceration in the past few decades. This debate

> has been dominated by two paradigms during the last decades: The 'power-paradigm' predicted a steep rise of female crime rates as a result of the thorough change of gender roles in this period, while the 'victim paradigm' directed attention to rising rates of alcohol and drug addiction as well as mental health problems and suicides among women. Both paradigms have been linked by the proposition that the low involvement of women in crime was compensated by their higher rates of all types of passive problem behavior like depression or addiction. (Karstedt 2000, 21)

There is, however, no evidence proving that either of these paradigms has had any causal effect on women's crime or incarceration (Karstedt 2000, 25). In fact, there seems to still exist a tendency towards leniency for women when their cases are being prosecuted in Germany, as “the decision-making programs of public prosecutors and court judges are designed in such a way that decisions are mainly based on the personality of offenders as well as on predictions of their future legal behavior, and much less on the offense” (Karstedt 2000, 26). Furthermore, a large number of the crimes for which many women

in Germany are incarcerated were committed by, or at the very least with, male intimate partners, even more reason to question the extent to which 'emancipation' is responsible for women's criminal behavior (Toth 2005, 16).

The continued socioeconomic inequality facing women in German is one of the largest factors contributing to women's perpetration of what is considered criminal activity. A “dominant majority of the women.... indicated a subjective experience of poverty, and also the majority of the women suffered from indebtedness.... The great majority of the women received welfare payments from the state, and many lived exclusively on such state support.” This, along with statistics revealing the undereducation and underemployment of women in German prisons, seems to indicate that “they had been already excluded from the labour market several years earlier,” if not for their whole lives (Toth 2005, 6).

Additionally, both the power and victim paradigms lack an exploration of the social, political, and economic factors leading to increased incarceration—factors that may cause increases in incarceration that are independent of increases in crime. As previously mentioned, the number of women involved in criminal behavior in Germany is far greater than that of those incarcerated. Thus, it is easy to imagine that the relationship between these two numbers has fluctuated over the years in response to shifts in sentencing practices and various other phenomena.

VIII. Conclusion

How well does the German women's prison system align with its stated goals of resocialization and societal protection? From the information in this chapter, it is clear

that the success of Germany's ability to resocialize and rehabilitate its incarcerated women is complex and neither fully effective nor a complete failure. Incarcerated women in Germany are certainly given some opportunities to resocialize, but budget inadequacies and a larger system of marginalization prior to and after their incarceration make this endeavor quite difficult at times. This shows a level of negligence or deprioritization on the part of the German state—perhaps driven, or at least enabled, by a certain level of ignorance among the general public about the realities of incarcerated women's lives.

The task set out in the previous chapter was to track the changes between the bifurcated prison systems in East and West Germany prior to Unification and the supposedly unified system present in contemporary Germany. Many of the difficulties facing women during Unification seem to have been resolved; after all, Germany now has a female Chancellor (from East Germany, no less) and has achieved relative—though by no means full—degrees of political, economic, and social parity for women and men. The experiences of incarcerated women in Germany expose the most severe of the remaining weaknesses in women's positionality in Germany, though mitigated somewhat by the prison's focus on resocialization and rehabilitation. This focus, one of the most positive aspects of incarceration to have survived the complex process of unifying the prison system throughout Germany, is one that is consistent with Germany's current identity as a social welfare market, and has led to the creation of many successful criminal legal programs and policies. These developments further substantiate this study's prevailing argument that a state's social, political, and economic realities are both reflective of and

reflected in its prison system, demonstrating the absolute importance of looking to Germany's incarcerated women in order to gain a full understanding of the current state of German democracy.

Though Germany is still in many ways made up of two distinct halves, the decentralization of prison authority throughout the individual states has made an analysis of East and West German prison systems much less relevant than before the fall of the Wall. Socially, the states are beginning to blend even further. Politically, East Germany is taking the stage. As this chapter is being written, a new German president has been appointed, a man who was born and raised in the GDR. With the two heads of the German state hailing from this former communist country, the merger seems to be closer to completion than ever before. The prison system, too, seems finally to be moving towards this goal of merging Eastern and Western correctional ideology. Elements from both systems can be seen in Germany's women's prisons of today. There is a focus on productive education and work that had not been present in West Germany's women's prisons prior to Unification, while security standards have been loosened in many women's facilities to a degree unheard of in communist East Germany. The overarching goal of incarceration is reintegration into German society, but German society is quite different than it was in either East or West before 1989. West German women have gained a greater degree of employment equality than they'd had before the fall of the Wall, while East German women have more freedom to organize publicly and to express their experiences through writing, art, and political action. But despite these progressions, many women are still falling through the cracks in German society, landing eventually in

prison. Such “criminal” behavior still labels its perpetrators as deviant, not only as citizens, but also as women; criminality and femininity are still at odds. Germany is trying to understand the needs of such deviant women, but has a long way to go in order to sufficiently improve their lives and positionality in the unified state, over twenty years after the Wall came down. In this way, Germany's strength as a nation is undermined; until it meets the needs of its most underserved women, it will never reach its true potential as one of the world's leading social welfare market states.

Conclusion

Although German Unification has often been called the Peaceful Revolution, it brought with it the spread of some of capitalism's many discontents. The prison system has grappled with how best to reconcile the realities of crime and incarceration in a capitalist state with certain ideological and physical remnants of its Eastern half's communist past. A criminal legal scholar wrote that

> the legal is an ideological form (of economic revolution). This is not to say that it is merely mental. It has a material reality in the form of police and prisons and guns and courts and legislators and law books and the rest. What is crucial is how this material reality is shaped, and for that we must understand how ideology is shaped. (Reiman 2003, 208)

The material reality of German women's prisons has been largely determined by their ideological foundations, and by the historical developments that have produced these ideologies. The German women's prison system, as this thesis has demonstrated, is complex and imperfect, yet in many ways very progressive. It is the result of the last sixty years of tumultuous German history, and has been uniquely shaped by the capitalist and communist histories of the once-divided state. In its current state, it seems to have incorporated elements of a supposedly “rational” or individualistic conception of humanity as well as one that is relational and interdependent, thus promoting

independence while still fostering and supporting care-based familial and social support systems. In this way, it reflects the remarkable development of Germany since the end of the horrific Second World War, providing a window into ideologies of gender, crime, and incarceration as they evolved and eventually merged. Germany serves as an excellent case study of the ways in which prisons are a product of their countries' histories, and is a model for understanding how prisons around the world must be analyzed in the context of their nations' past. Any attempt to compare prison systems across international borders must be centered around the unique contextual development of each country and its prisons.

In the first chapter, women's incarceration policies and practices in East and West Germany were analyzed in the context of divergent constructions of gender, the role of the State, and incarceration in the newly created communist and capitalist nations. In this setting, women's prisons reflected these social, economic, and political constructions, and attempted to mold incarcerated women into each state's respective model of ideal femininity. In the East, this was a socialist worker—though the prison curiously neglected the reality of women's lives as mothers, something that the government had highly emphasized outside of the prison. In the West, women were to be domestic housewives, and the limited education and vocational opportunities inside criminal legal institutions reflected this ideal. In both cases, work opportunities and expectations inside and outside of the prison were incongruent with one another.

Then, the second chapter acted as a bridge between the pre-Unification period described in the first chapter and the post-Unification years explored in the third chapter,

analyzing the impact of Unification on women in East and West Germany and on prisons throughout both states. Due to a lack of information on women's prisons during this time, the chapter tested the thesis' argument that prisons are a product of their social, political, and economic histories by exploring the fate of non-incarcerated women and of prisons in general during this period in order to see what impact the asymmetrical Unification process would have on women's incarceration in the years after the fall of the Berlin Wall and the collapse of the East German government. It found that, just as women throughout the country and people inside its prisons had been socially, politically, and economically disadvantaged prior to Unification, this process served to disproportionately amplify this marginalization.

Finally, the third chapter described contemporary German women's prisons and the extent to which they reveal weaknesses in what is now a very strong, unified Germany. Though all remnants of socialist and communist thought seemed to be highly endangered during the early years of the Unification process, as seen in the second chapter, certain elements of East Germany's ideologies have remained embedded in the German state, as demonstrated by the prison system. This state, now a model of success in Europe and beyond, has become undeniably economically, politically, and socially strong. But, in light of its identity as a social welfare market state, certain populations remain underserved. Though much has improved since the years immediately surrounding Unification, the experiences of incarcerated women in Germany underscore not only this neglect, but also the complex efforts that the German state have made or attempted to make in order to better serve these women.

Just as a study of the past sixty years of German history has provided an explanation of the development of its women's prisons, scholars who are invested in predicting the future of German prisons would do well to look at the trajectory of the German state—and vice versa. In recent years, Germany has begun to gradually liberalize its economy under the direction of a (relatively) conservative administration. Still, certain social welfare programs have remained and likely will remain central to Germany's political identity; one can only hope that the myriad care-based resocializing and rehabilitating programs that are now so central to German prisons will continue to develop with the support of the state. Germany, as with any country around the world, will always be able to test its success as a true democracy by assessing the experiences of its most underprivileged citizens: incarcerated women.

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