

ARTICLE

Can Democracy Be Queer?: Male Homosexuality, Democratisation, and the Law in Postwar Germany

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When Nazi officials surrendered to the Allied powers on 8 May 1945, gay German men hoped fervently that their suffering had come to an end. Ten years earlier, the fascist government had promulgated draconian new laws criminalising all forms of male same-sex behaviour. After the war, as Allied officials embarked on an extensive programme of democratic renewal in the occupied lands, gay men hoped that democratisation would mean the repeal of these laws. Yet, the new West Germany retained the Nazi-era laws until 1969, convicting over 50,000 men in those twenty years. Using petitions to government officials as well as essays in and letters to the editors of homophile magazines, this article examines how gay men in West Germany conceived of democratisation, asking what expectations they held for the new republic, how their views shifted as it proved hostile to queer citizens, and what this history means for the broader understanding of democratisation in the postwar world.

In 1957 West Germans went to the polls for the third federal election since their country's birth. Konrad Adenauer, the aged chancellor, had been in power for eight years at the head of a centre-right cabinet. After four years of Allied occupation that had in theory, if not fact, denazified West Germany, Adenauer's government had not only dragged Germany out from under the rubble of the Second World War but also reimposed rigid gender and sexual norms. In those early postwar years, queer West Germans frequently wondered what democracy had brought them. What had really changed in their lives since the dark days of National Socialism?

For gay men, the answer was seemingly little. After all, paragraph (§) 175 and §175(a) of the criminal code, draconian laws that the Nazis had promulgated in 1935 to prosecute male homosexuality, remained in force in West Germany. Although men convicted of having sex with men were no longer sent to concentration camps, courts convicted over 3,000 of them under these laws in 1957 alone. Between 1949 and 1969, when they were finally reformed to legalise adult male homosexual acts, West German courts used these statutes to convict over 50,000 men.¹ Still, a burst of hope had attended the occupation era, as queer Germans hoped for a return to the more tolerant days of the Weimar Republic. A number of new homophile organisations arose in the late 1940s and early 1950s, such as a reincarnation of Magnus Hirschfeld's Scientific-Humanitarian Committee. These groups described themselves as homophile in order to signal that their identity was a respectable one, not solely dictated by sexual appetites, and to emphasise their desire to conform to the social status quo. That is, they purposefully distanced themselves from more radical political and social projects.

¹ Gottfried Lorenz and Ulf Bollmann, 'Die Rechtsprechung nach §§175 und 175a StGB in der Freien und Hansestadt Hamburg im Spiegel der Haupt- und Vorverfahrensregister der Staatsanwaltschaft der Jahre 1948 bis 1969', in Norbert Finzsch and Marcus Velke, eds., *Queer | Gender | Historiographie: Aktuelle Tendenzen und Projekte* (Berlin: LIT Verlag, 2016), 253–4.

By the end of the 1950s, though, these organisations had largely disbanded under the weight of social opprobrium and legal persecution.²

But in 1957 a curious article appeared in *Der Kreis*, the trilingual Swiss homophile magazine that began publishing in 1943. The author, identified only as H.L., posited, ‘The homoerots empowered to vote might represent to every party a mass [of voters], that at any sort of referendum or later election would be enviable’. The parties, however, were sadly ignorant of the magnitude of the homophile vote, H.L. claimed. Thus, they had to ‘be made aware’ of it. The article suggested that queer West Germans not vote for any party in the upcoming election, but instead scrawl a giant ‘\$’ on their ballots. ‘In this way it would become apparent’, H.L. wrote, ‘how many homoerots await their party’.³ The plan, unsurprisingly, was not a success. Running under the slogan ‘No Experiments!’, Adenauer’s Christian Democratic Union and its Bavarian sister party won an absolute majority of seats in the *Bundestag*, the only time a bloc has accomplished such a feat in over a century and a half of German parliamentary contests.

Nonetheless, H.L.’s article suggested a certain affinity between homophile rights campaigns, which sought in particular to overturn §175, and West Germany’s process of democratisation. It envisioned a democratic mobilisation of sexual minorities that would force the parties to pay attention to them. In a certain light, this suggestion fits comfortably with our contemporary assumptions about the place of democracy in queer history – as well as of queerness in the history of democracy. Although earlier generations of queer writers and advocates did not always believe that there existed a strong correlation between queerness (which I use as an umbrella term for sexual and gender minorities and heterodox sexual and gendered behaviours) and democracy, in the last few decades scholars and the public alike have increasingly taken it for granted, as Craig Griffiths notes, ‘that Western liberal democracy and sexual and minority rights are somehow inevitable historical bedfellows’.⁴ This assumption is, of course, intimately associated with what Jennifer Evans, Dagmar Herzog, and numerous other scholars have critiqued as a triumphalist narrative that places certain queer rights and identities at the fulcrum of sexual modernity while implicitly normalising the oppressions that other queer populations face.⁵

In light of these assumptions and the critiques that scholars have levelled against them, H.L.’s article raises a fascinating new set of questions: how did queer West Germans experience democratisation, and what did they make of it? What hope did they see in the young German democracy? What, to them, did democracy even signify? For the postwar years were not merely a moment when democracy re-emerged from behind fascism and state socialism as a desirable manner of organising societies.⁶ These years were also an era when thinkers, politicians, and voters were renegotiating and reimagining democracy’s very meaning. And although male homosexuality in the period between 1945 and 1955, when West Germany remained under Allied suzerainty, has been well documented, these questions about the relationship between queerness and democratisation have not yet been posed.⁷ In asking

² Clayton J. Whisnant, *Male Homosexuality in West Germany: Between Persecution and Freedom, 1945–69* (London: Palgrave Macmillan, 2012), 108; Bernhard Rosenkranz and Gottfried Lorenz, *Hamburg auf anderen Wegen: Die Geschichte des schwulen Lebens in der Hansestadt* (Hamburg: Himmelstürmer Verlag, 2012), 89.

³ H.L., ‘Die deutschen Bundestagswahlen und der Homoerot’, *Der Kreis*, 25, 6 (1957), 10. The homosexual rights activist Kurt Hiller suggested similar electoral strategies in the 1920s; Laurie Marhoefer, *Sex and the Weimar Republic: German Homosexual Emancipation and the Rise of the Nazis* (Toronto: University of Toronto Press, 2015), 6–7.

⁴ Just as I use ‘queer’ as an umbrella term for different groups of gender and sexual nonconforming individuals, I use ‘gay’ as a convenient shorthand for men who identified as being physically, sexually, or romantically attracted to other men. Craig Griffiths, ‘Between Triumph and Myth: Gay Heroes and Navigating the Schwule Erfolgsgeschichte’, *Heroes. Helden. Héros* (2014), 58.

⁵ Jennifer Evans, ‘Introduction: Why Queer German History?’, *German History*, 34, 3 (2016), 371–84; Dagmar Herzog, ‘Syncopated Sex: Transforming European Sexual Cultures’, *The American Historical Review*, 114, 5 (2009), 1295; Benno Gammerl, *anders fühlen: Schwules und lesbisches Leben in der Bundesrepublik. Eine Emotionsgeschichte* (Munich: Carl Hanser Verlag, 2021), 338–9.

⁶ Mark Mazower, *Dark Continent: Europe’s Twentieth Century* (New York: Vintage Books, 1998), 182–91.

⁷ See Jennifer Evans, *Life among the Ruins: Cityscape and Sexuality in Cold War Berlin* (London: Palgrave Macmillan, 2011); Whisnant, *Male Homosexuality*; Andreas Pretzel, *Ohnmacht und Aufbegehren: homosexuelle Männer in der frühen*

them, this essay seeks not only to better grasp the political thinking of homophile activists and gay citizens, but also to interrogate West Germany's processes of democratisation from a queer perspective.

The occupation years have become the subject of greater scholarly attention in the last few decades. Although the Allied democratisation of West Germany had been seen as a success for many years, when George W. Bush's administration employed that history as cover for the invasion and democratisation of Iraq, scholars returned to the occupation period with a more critical eye. Recent studies examining the role of Allied officials, German politicians, and elite experts have revealed the idiosyncrasies and failures of Allied-led democratisation.⁸ Because they focus on German and Allied elites, though, these works sometimes elide the rich historiography of everyday life in occupied Germany and can fail to consider how ordinary West Germans experienced and shaped democratisation efforts.⁹ Moreover, this scholarship has largely left marginalised groups, including queer populations, out of this history entirely. Examining democratisation from the perspectives of queer West Germans, in this case queer men, can reshape our understanding of how democratisation played out on the ground and what ordinary Germans believed they were getting with the reintroduction of parliamentary democracy.

To begin to answer these questions, this essay relies primarily on articles in and letters to the editor of *Der Kreis*. Although published in Switzerland, these articles and letters were written about West Germany by West Germans. *Der Kreis* is a particularly compelling source because it endured for so long and enjoyed such a large readership in both West Germany and across Western Europe. While there were West German homophile periodicals published in the early 1950s, such as *Der Weg*, *Freund*, and *Die Insel*, most of them lasted only a few years and reached smaller audiences.¹⁰ I supplement these published sources with petitions (*Eingaben*) from ordinary West Germans to the federal government, now stored at the Federal Archive in Koblenz, and other publications from the period. Because these sources privileged male voices, this article looks solely at male homosexual experiences and conceptions of democracy in the period between 1945 and 1955.

Examining these sources for how authors conceived of the relationship between homosexuality and democracy, I make three arguments. First, homophile writers, activists, and petitioners were initially optimistic about West Germany's democratisation, believing that it would lead to pro-gay policy changes, in particular the repeal of §175. In making such arguments, however, these writers betrayed a fuzzy understanding of what democracy signified, equating it with, among other things, the rule of law, the protection of minority groups, or a return to the Weimar era. Second, when the federal

Bundesrepublik (Hamburg: Männerschwarm, 2010); Gammerl, *anders fühlen*. There is also increasing interest in lesbian and trans experiences in this period; see Andrea Rottmann, 'Queer Home Berlin?: Making Queer Selves and Spaces in the Divided City, 1945–1970', PhD thesis, University of Michigan, 2019.

⁸ See Konrad H. Jarausch, *After Hitler: Recivilizing Germans, 1945–1995* (Oxford: Oxford University Press, 2008); Udi Greenberg, *The Weimar Century: German Émigrés and the Ideological Foundations of the Cold War* (Princeton: Princeton University Press, 2015); Frederick Taylor, *Exorcising Hitler: The Occupation and Denazification of Germany* (New York: Bloomsbury Publishing, 2011); Noah Benezra Strote, *Lions and Lambs: Conflict in Weimar and the Creation of Post-Nazi Germany* (New Haven: Yale University Press, 2017); Sean A. Forner, *German Intellectuals and the Challenge of Democratic Renewal: Culture and Politics after 1945* (Cambridge: Cambridge University Press, 2017); Till van Rahden, 'Clumsy Democrats: Moral Passions in the Federal Republic', *German History*, 29, 3 (1 Sept. 2011), 485–504.

⁹ The historiography of everyday life in occupied Germany includes Atina Grossmann, *Jews, Germans, and Allies: Close Encounters in Occupied Germany* (Princeton: Princeton University Press, 2009); Elizabeth D. Heineman, *What Difference Does a Husband Make? Women and Marital Status in Nazi and Postwar Germany* (Berkeley: University of California Press, 2003); Monica Black, *A Demon-Haunted Land: Witches, Wonder Doctors, and the Ghosts of the Past in Post-WWII Germany* (New York: Metropolitan Books, 2020).

¹⁰ Hans-Georg Stümke, *Homosexuelle in Deutschland: eine politische Geschichte*, Beck'sche Reihe (Munich: C.H. Beck, 1989), 137–42; Whisnant, *Male Homosexuality*, 88–93; Gottfried Lorenz, 'Hamburg als Homosexuellenhauptstadt der 1950er Jahre: Die Homophilen-Szene und ihre Unterstützer für die Abschaffung des §175 StGB', in Andreas Pretzel and Volker Weiß, eds., *Ohnmacht und Aufbegehren: Homosexuelle Männer in der frühen Bundesrepublik* (Hamburg: Männerschwarm, 2010), 128–35.

government declined to reform the law, gay West Germans soured on democracy and democratisation. In petitions, letters to editors, and articles, they pointed to the hypocrisies of liberal democracy and continuities with the Nazi era. They even began to question if democracy could ever live up to its promise to protect minorities and individual liberties. Third, in questioning democracy, many of these writers began to turn away from the language of democratisation and instead towards the language of law, advocating for a more fully realised *Rechtsstaat*, or state based on the rule of law. These three developments did not, of course, occur in neat chronological order, but were overlapping processes that resonated with and informed each other. Tracing these subtle evolutions in how gay West German men thought about democracy and democratisation highlights the contested nature of what democracy can mean at any given time to any given group of people.

Queer Democratisation in the Early Postwar Era

Grasping the hopes and anxieties of homophile advocates in 1945 requires a brief detour through the middle of the nineteenth century. In those years, the first homosexual rights movement got its start thanks to the efforts of pioneering advocates and sexologists who demanded the repeal of the Prussian, and then German, law prohibiting penetrative sex between men. Originally §143 of the Prussian criminal code, the law was adopted verbatim as §175 of imperial Germany's new code in 1871.¹¹ Beginning in 1862 with the efforts of Hanoverian lawyer Karl Heinrich Ulrichs, advocates had unsuccessfully campaigned to secure its repeal. These efforts largely centred around respectable political strategies such as petitions of notables addressed to the deputies of the imperial parliament (*Reichstag*).¹² In 1898 the sexologist and rights advocate Magnus Hirschfeld authored a petition demanding the repeal of §175. Over ensuing years, luminaries from across the country signed it, including August Bebel, Thomas Mann, Käthe Kollwitz, and Albert Einstein.¹³

Hirschfeld and others built on these efforts in the Weimar Republic, which was established in 1919. With other homosexual rights advocates, such as the communist intellectuals Kurt Hiller and Richard Linsert or the masculinist publisher Adolf Brand, as well as activists from the women's movement, he helped to found the Cartel for the Reform of the Sexual-Criminal Law in 1925.¹⁴ A broad alliance of feminists and leftist politicians, the Cartel almost succeeded in overturning the law. In 1929, a parliamentary committee voted to axe §175 by a narrow vote. At the same time, however, it proposed a new §297, which would have criminalised the so-called seduction of male youth under twenty-one years of age and male prostitution. Although §297 and the repeal of §175 were never put to a vote of the full parliament, this process of democratic compromise, which Laurie Marhoefer has termed the 'Weimar settlement on sexual politics', left a sour taste in many advocates' mouths.¹⁵ It divided moderates such as Hirschfeld from more radical members of the movement, like Hiller and Linsert, cleaving it in the years before the republic's collapse.

In 1933, the give and take of Weimar democracy came to a screeching halt. And in 1935, a year after the so-called Night of the Long Knives, when Hitler authorised the murder of numerous political opponents including Ernst Röhm, the gay chief of staff of the Nazi Storm Troopers, the government

¹¹ Rüdiger Lautmann, 'Das Verbrechen der widernatürlichen Unzucht: Seine Grundlegung in der preußischen Gesetzesrevision des 19. Jahrhunderts', *Kritische Justiz*, 25, 3 (1992), 308; Robert Beachy, 'The German Invention of Homosexuality', *The Journal of Modern History*, 82, 4 (1 Dec. 2010), 804–8.

¹² Robert Beachy, *Gay Berlin: Birthplace of a Modern Identity* (New York: Knopf, 2014), 3–41; Clayton J. Whisnant, *Queer Identities and Politics in Germany: A History, 1880–1945* (New York: Harrington Park Press, 2016), 20–1.

¹³ Beachy, *Gay Berlin*, 90; Ralf Dose, *Magnus Hirschfeld: The Origins of the Gay Liberation Movement*, trans. Edward H. Willis (New York: Monthly Review Press, 2014), 41–2; Whisnant, *Queer Identities*, 29–30; Simon LeVay, *Queer Science: The Use and Abuse of Research into Homosexuality* (Cambridge, MA: MIT Press, 1996), 24–5; Heike Bauer, *The Hirschfeld Archives: Violence, Death, and Modern Queer Culture* (Philadelphia: Temple University Press, 2017), 24–5.

¹⁴ Glenn Ramsey, 'The Rites of Artgenossen: Contesting Homosexual Political Culture in Weimar Germany', *Journal of the History of Sexuality*, 17, 1 (1 Jan. 2008), 96.

¹⁵ Marhoefer, *Sex and the Weimar Republic*, 120–1, 143.

promulgated a new, harsher version of §175 that made all homosexual acts – no longer solely penetrative sex – a crime.¹⁶ It also introduced §175(a). Much like the proposed §297, this new law criminalised qualified or so-called severe homosexuality, including the seduction of men under the age of twenty-one and male prostitution.¹⁷ As is well known, around 50,000 men were convicted under the laws between 1935 and 1945, and some 10,000 were sent to concentration camps, where they often wore the now-infamous pink triangle.¹⁸ In November 1941, Heinrich Himmler mandated execution for men in the SS or the police forces convicted of having sex with men, a penalty that was carried out until the end of the war.¹⁹ Although female homosexuality was not explicitly criminalised, lesbian women also faced discrimination and persecution from Nazi officials.²⁰ Few other states have pursued such vicious policies against queer people.

Thus, when German forces surrendered to the Allied powers on 8 May 1945, gay men had good reason to hope for positive change. After all, they had been on the verge of repealing the hated §175 at the end of the democratic Weimar era. Moreover, the new §175 and §175(a) were products of the now-defeated Nazi regime. Consequently, the early postwar period witnessed a new sexual exuberance. Even in the first days of the Soviet occupation, a Berlin diarist wrote, ‘There were a number of amazing characters there, types you haven’t seen for years, people who’ve been staying out of sight and are now crawling out of the woodwork everywhere you look. I saw male dancers . . .’²¹ A few years later, an article in *Der Kreis* enthused, ‘Berlin is dancing!’²²

Those who were aware of the law – and of efforts to repeal it – assumed that the new democratic order would soon do away with what they considered to be nothing more than the detritus of fascism. One man writing in *Der Kreis* in 1951, for instance, described his arrest and persecution at the hands of Nazi authorities. He indicated that he had (incorrectly) assumed he would just have to await the ‘collapse of the Nazi regime, which I expected in the summer of 1944, and then I would be free’.²³ Those who staked their hopes on the new order sometimes suggested that the Weimar parliament’s near-repeal of §175 was cause for hope. A 1948 letter to *Der Kreis* referenced, for instance, the 1929 committee’s vote to repeal §175, although the author incorrectly dated it to 1932 and mischaracterised it as a decision taken ‘with a great majority of the votes’. He nonetheless suggested that a German democracy would naturally repeal §175 and indicated that gay men in Germany had ‘believed that after the collapse, this tendentious National Socialist law would fall immediately’.²⁴ He suggested that its repeal was being stymied by the Allied military governments and by still-Nazified court systems. To readers of and contributors to *Der Kreis*, then, the Weimar experiment with democracy seemed to give hope that the new republic might serve their interests.

¹⁶ Andrew Wackerfuss, *Stormtrooper Families: Homosexuality and Community in the Early Nazi Movement* (New York: Harrington Park Press, 2015), 296–316; Dagmar Herzog, *Sex after Fascism: Memory and Morality in Twentieth-Century Germany* (Princeton: Princeton University Press, 2007), 88–90; Claudia Schoppmann, *Nationalsozialistische Sexualpolitik und weibliche Homosexualität* (Pfaffenweiler: Centaurus-Verlagsgesellschaft, 1991), 88–97.

¹⁷ Christian Schäfer, ‘Widernatürliche Unzucht’ (§§ 175, 175a, 175b, 182 a.F. StGB): *Reformdiskussion und Gesetzgebung seit 1945* (Berlin: BWV Verlag, 2006), 38–45.

¹⁸ Stümke, *Homosexuelle*, 119; Burkhard Jellonnek, *Homosexuelle unter dem Hakenkreuz* (Paderborn: Schöningh Paderborn, 1990), 12–13; Eric A. Johnson, *Nazi Terror: The Gestapo, Jews, and Ordinary Germans* (New York: Basic Books, 1999), 288.

¹⁹ Geoffrey J. Giles, ‘The Denial of Homosexuality: Same-Sex Incidents in Himmler’s SS and Police’, *Journal of the History of Sexuality*, 11, 1/2 (2002), 256–90.

²⁰ See Schoppmann, *Nationalsozialistische Sexualpolitik*; Laurie Marhoefer, ‘Lesbianism, Transvestitism, and the Nazi State: A Microhistory of a Gestapo Investigation, 1939–1943’, *American Historical Review*, 121, 4 (Oct. 2016), 1167–95; Anna Hájková, ‘Den Holocaust queer erzählen’, *Sexualitäten* (2018), 86–110; Samuel Clowes Huneke, ‘Heterogeneous Persecution: Lesbianism and the Nazi State’, *Central European History*, 54, 2 (June 2021), 297–325.

²¹ Anonymous, *A Woman in Berlin: Eight Weeks in the Conquered City: A Diary* (New York: Picador, 2017), 244.

²² Akantha, ‘Berlin tanzt!’, *Der Kreis: ein Monatsschrift*, 17, 9 (1949), 8–10, 22.

²³ ‘Dokumente des Unrechts’, *Der Kreis*, 19, 1 (1951), 3.

²⁴ L.G.H., ‘Die Freiheit läßt auf sich warten’, *Der Kreis*, 16, 10 (1948), 2.

In some documents, these hopes coalesced into a more general faith in democracy's potential to protect sexual minorities. In 1955, for instance, one S.K. from Mannheim wrote to the federal government about the proposed criminal code reform (which would not deliver an actual change in the law until 1969). He explicitly noted, 'in our democratic federal republic, I, as a medical student, see this [reform] as urgently necessary'.²⁵ Likewise, Karl Meier, the editor of *Der Kreis* who published under the name Rolf, had written already in 1946 about the importance of democracy. Criticising the Weimar-era masculinist writer Ewald Tscheck, who had advocated for a homoerotic male association (*Männerbund*) as the organisational foundation of the state and society, Meier linked Tscheck's writings to the rise of Nazism. He insisted that 'the state form of democracy bolsters an equilibrium of powers' better than the homoerotic bonds that Tscheck had lauded decades earlier.²⁶

The hostility of masculinist writers like Tscheck to democracy is a well-studied phenomenon.²⁷ Many of the men who had published in Adolf Brand's *Der Eigene* also dreamed of a racially pure, patriarchal state. Stefan George, the homoerotic poet who gathered around himself a circle of devotees, including the Stauffenberg brothers, was intensely hostile to the Weimar Republic.²⁸ Believing that male homoerotic bonds were the foundation of a healthy state, masculinist writers considered the democratic freedoms of the Weimar era to be nothing more than decadence sapping the life force of the nation. Not for nothing did over 30 per cent of 38,000 queer men surveyed by Friedrich Radszuweit in 1926 identify with right-wing or *völkisch* parties.²⁹ The homoerotic, masculinist tradition of queer thought was at best sceptical of democracy and, at worst, feared that it would stifle what its proponents perceived as the ennobling experience of homoerotic desire. At the same time, some Weimar-era intellectuals attempted to divert the stream of masculinist thought into republican channels. Thomas Mann, for example, delivered his famous address 'Of the German Republic' on 13 October 1922, in which he attempted to make the homoerotic *Männerbund* a constituent of the democratic order.³⁰

Meier and the authors of *Der Kreis* were familiar with this anti-democratic, masculinist tradition and, in fact, made a concerted effort to counteract it. Hugo Marcus, a writer who regularly published in *Der Kreis*, developed, as Adrian Daub argues, an 'ontology of democracy' that opposed the masculinist reverence for the 'exclusionary' and even 'secret' *Männerbund*.³¹ Elsewhere in *Der Kreis*, authors explicitly rebuked the masculinist tradition. In a 1946 letter to the editor, a reader of *Der Kreis* angrily asserted that Stefan George's poetry represented 'a false no to democracy'. Insisting that 'no one can love the poet George more fiercely [...] than I', he argued that it would do homophiles a great disservice not to acknowledge the poet's fascist tendencies and the attraction that National Socialism held for him and for his followers.³² While such comments certainly indicated a turn away from the anti-democratic nature of masculinist thought, they did not always provide an explanation for why democracy was the answer to gay men's plight. Rather in a sort of double-negative logic, these letters and

²⁵ Petition from S.K., 10 Jan. 1955, Bundesarchiv-Koblenz (BArch-Koblenz), B 141/4075, 5.

²⁶ Ewald Tscheck, 'Die Männerbundidee in der deutschen Romantik', *Der Kreis*, 14, 3 (1946), 3. For more on Tscheck, who may have even joined the Nazi Storm Troopers in the 1920s, see Beachy, *Gay Berlin*, 229–230.

²⁷ Claudia Bruns, *Politik des Eros: Der Männerbund in Wissenschaft, Politik und Jugendkultur* (Köln: Böhlau, 2008), 383–441; Claudia Bruns, 'The Politics of Masculinity in the (Homo-)Sexual Discourse (1880 to 1920)', *German History*, 23, 3 (Aug. 2005), 306–20; Harry Oosterhuis, 'Eros and Male Bonding in Society: Introduction', in Harry Oosterhuis, ed., Hubert Kennedy, trans., *Homosexuality and Male Bonding in Pre-Nazi Germany: Original Transcripts from Der Eigene, the First Gay Journal in the World* (New York: Haworth Press, 1991), 119–26; Ian Patrick Beacock, 'Heartbroken: Democratic Emotions, Political Subjectivity, and the Unravelling of the Weimar Republic, 1918–1933', PhD thesis, Stanford University, 2018, 119–20.

²⁸ Robert Edward Norton, *Secret Germany: Stefan George and His Circle* (Ithaca: Cornell University Press, 2002), xi.

²⁹ These respondents belonged to a number of parties, including the centre-right German People's Party (DVP), the far-right German National People's Party (DNVP), and the fascist Nazi Party (NSDAP); Beachy, *Gay Berlin*, 236.

³⁰ Beacock, 'Heartbroken', 100–134.

³¹ Adrian Daub, 'From Maximin to Stonewall: Sexuality and the Afterlives of the George Circle', *The Germanic Review: Literature, Culture, Theory*, 87 (2012), 32.

³² 'Echo aus Briefen', *Der Kreis*, 14, 5 (1946): 2.

articles implied that because masculinist thought had rejected democracy and flirted with Nazism, and because Nazism had persecuted gay men, it was necessary to embrace democracy as the solution to that persecution.

Others in the late 1940s and early 1950s tried to work out why, exactly, democracy might be friendly to homophile interests. One piece in the periodical *Die Insel* by the homophile International Friendship Lodge (IFLO) in Bremen offered a particularly fulsome analysis of ‘us and the democratic state’.³³ Writing in 1952, the group asserted that it was necessary to rethink what, precisely, democracy meant. The essay argued that democracy in Europe had arrived ‘with the liberty, equality, fraternity of the French Revolution and the spirit of the American Declaration of Independence’. From these documents ‘the state was born, which gives humanity its greatest chance to become reality’.³⁴ Drawing on this historical background, the group argued that democracy was an expression of liberty, of the preferences of the ‘*Volk*’, and of the rule of law.

Here already the article betrayed a certain fuzziness of thinking, for it equated democracy with a number of distinct phenomena, such as individual liberty or the rule of law, ignoring the potential for illiberal democracy or an authoritarian rule of law. Indeed, it slipped seamlessly into arguing that ‘the nobility of democracy comes not from the brutal supremacy of the majority, but rather in the recognition of the independence of the minority’.³⁵ The individual, they contended, has an inalienable ‘right to love’ that any democracy worth its name would respect. Moreover, the group warned that if §175 were not repealed, ‘this minority’ would be forced into ‘opposition to the state’. As ‘citizens’, then, they demanded ‘from the state the respect of the right of a man to love with body, soul and spirit another person of the same sex’.³⁶

Although stirring in its rhetoric, the article did little to clarify when or why a democratic state ought to protect the rights of minorities. At moments it pleaded for rights, at others it demanded concessions. At times in this short essay, queer West Germans appeared as pitiful victims of a persecuting state. At other times, they were a fearsome political force – ‘a power’ to be reckoned with. The article thus revealed jumbled thinking about democracy, at base nothing more than the assumption that a democracy ought to do certain things, such as respect the rule of law, individual liberty, and the rights of minorities. We know, though, that democracies frequently do none of these.³⁷ Of course, it is a high bar to ask ordinary people who are not professional intellectuals to develop and deploy a coherent definition of democracy. To the extent that there is a consistency in these texts, it is in their insistent focus on what political theorists William Novak and Stephen Sawyer have termed ‘democratic ends’ – here, the repeal of §175 – rather than on democratic institutions or norms.³⁸ The interesting point, then, is not that these writers were not careful theorists, but rather that they equated democracy not with certain abstract ideals or structures but rather with specific outcomes.

Thus, in the early postwar era, many homophile writers and gay West Germans explicitly saw in democracy hope for their own cause and for the repeal of §175 in particular. Some perceived a continuity between the Weimar era’s reform efforts and the new state while others, such as the IFLO, made a more explicit attempt to theorise democracy as a particular form of protection for minority rights. In many cases, though, these assertions were unfounded or unquestioned. There was hope, but not, perhaps, a theory of democracy to undergird it.

³³ For more on the IFLO, see Whisnant, *Male Homosexuality*, 88–9.

³⁴ IFLO, ‘Wir und der demokratische Staat’, *Die Insel*, 2 (Mar. 1952), 4.

³⁵ *Ibid.*

³⁶ *Ibid.*, 4–5. This rhetoric mirrors some earlier thought, especially that of Kurt Hiller, who notably argued for the ‘right to one’s own body’; see Kurt Hiller, *Das Recht über sich selbst: Eine strafrechtsphilosophische Studie* (Heidelberg: C. Winter, 1908).

³⁷ Pierre Rosanvallon, for instance, critiques those who equate democracy with ‘the triple reign of the market, of the rights of man, and of opinion’; Pierre Rosanvallon, *Democracy Past and Future*, Samuel Moyn, ed. (New York: Columbia University Press, 2007), 196.

³⁸ William J. Novak and Stephen W. Sawyer, ‘Epilogue: The Need for a New and Critical Democracy’, *The Tocqueville Review*, XLI, 2 (2020), 113.

Souring on Democracy

In the years to come, the Federal Republic did not provide the relief that so many queer West Germans had hoped that it would. In the late 1940s, the Allied Control Council refused to make a decision about §175 and §175(a), and in the years after 1949, the West German government allowed the Nazi-era laws to stand. Courts in the Western occupation zones repeatedly upheld their validity in contradistinction to courts in East Germany, which struck down the Nazi-era version of §175 and reverted to its Weimar-era language. Attempt after attempt to win leniency from West German judges failed until finally in 1957 the West German Constitutional Court resoundingly denied the arguments of homosexual activists, lawyers, and sexologists that the statutes were inherently fascist or that they contravened certain liberties enshrined in the Basic Law.³⁹ Between 1949 and 1969, when the laws were reformed to legalise adult, male homosexual acts, over 50,000 men were convicted under §175 and §175(a). In contrast, evidence suggests that East German courts, operating under state socialism, convicted around five times fewer men, per capita, under §175 than did West German courts.⁴⁰

Men who had been imprisoned in the Nazi era often had their criminal records used against them in the postwar years. Some who had been interned in concentration camps were even reimprisoned by British or American authorities.⁴¹ At the same time, courts were never fully denazified, and in the early 1950s they were even 'renazified', as former Nazi judges reclaimed their posts under Adenauer's amnesty laws.⁴² Certain judges became infamous for their anti-gay views and judgments. Kurt Romini in Frankfurt am Main presided over a mass roundup of queer men in the autumn of 1950. A former Nazi prosecutor, he processed dozens of cases in a matter of weeks until he was abruptly promoted to lead a different court.⁴³ In West Berlin, Countess Marion Yorck von Wartenburg was similarly feared. A member of the resistance in Nazi Germany and wife of Count Peter Yorck von Wartenburg, who was executed for his role in the 20 July 1944 attempt on Hitler's life, she had impeccable anti-fascist credentials. As chief judge of a local court, she was known for harsh sentences against the men charged under §175 and §175(a).⁴⁴ While other courts around the country sometimes issued more lenient sentences, the two decades from 1949 to 1969 were a period of persecution that many gay men at the time believed flew in the face of West Germany's democratic commitments. Simply put, this was not how a democracy was supposed to behave.

This disappointment resonated in publications from the era, especially those from the 1950s, which saw the high point of the postwar persecution of queer men. In 1955, for instance, Erhard S. from Kiel sent a petition to the federal government. 'One thing is sure', he wrote: 'If this democracy stubbornly clings to the sinister longing to continue persecuting innocent people, abandoning them to murderers and chasing them into death . . . then the fate of Babylon will befall it'.⁴⁵ These were no longer the words of hope in the new German democracy, but rather the language of dismay. Even already in 1949, some were beginning to point out the hypocrisies of the new government. One person penned

³⁹ Samuel Clowes Huneke, *States of Liberation: Gay Men between Dictatorship and Democracy in Cold War Germany* (Toronto: University of Toronto Press, 2022), 90–2; Robert G. Moeller, 'The Homosexual Man Is a "Man", the Homosexual Woman Is a "Woman": Sex, Society, and the Law in Postwar West Germany', *Journal of the History of Sexuality*, 4, 3 (1 Jan. 1994), 404–26; Whisnant, *Male Homosexuality*, 108–10.

⁴⁰ Klaus Berndt, 'Zeiten der Bedrohung: Männliche Homosexuelle in Ost-Berlin und der DDR in den 1950er Jahren', in Rainer Marbach and Volker Weiß, eds., *Konformitäten und Konfrontationen: Homosexuelle in der DDR* (Hamburg: Männerschwarm Verlag, 2017), 25.

⁴¹ Stefan Micheler, '...und verbleibt weiter in Sicherungsverwahrung' – Kontinuitäten der Verfolgung Männer begehrender Männer in Hamburg 1945–1949', in Andreas Pretzel and Volker Weiß, eds., *Ohnmacht und Aufbegehren: Homosexuelle Männer in der frühen Bundesrepublik* (Hamburg: Männerschwarm Verlag, 2010), 62–90.

⁴² Mary Fulbrook, *Reckonings: Legacies of Nazi Persecution and the Quest for Justice* (Oxford: Oxford University Press, 2018), 251.

⁴³ Dieter Schiefelbein, 'Wiederbeginn der juristischen Verfolgung homosexueller Männer in der Bundesrepublik Deutschland: Die Homosexuellen-Prozesse in Frankfurt am Main 1950/51', *Zeitschrift für Sexualforschung*, 5, 1 (1992), 59–73; 'Homosexuelle: Eine Million Delikte', *Der Spiegel* (29 Nov. 1950), 7–10.

⁴⁴ Andreas Pretzel, *NS-Opfer unter Vorbehalt: homosexuelle Männer in Berlin nach 1945* (Münster: LIT Verlag, 2002), 322.

⁴⁵ Petition from Erhard S., 16 Aug. 1955, BArch-Koblenz, B 141/4075, 32.

a letter to *Der Kreis* under the name 'Juris' in March 1949, for example, in which he criticised the 'American occupation' and 'this new, German democracy', both of which had 'strangely conserved a law of Hitlerite origin'.⁴⁶ These men were beginning not only to notice a peculiar dissonance between their own views of what a democracy should do and the reality of West German democracy, but also to sour on that democracy. Unlike other articles and petitions, which held onto the prospect that the occupation authorities or West Germany's political leaders would come to the realisation that democracy necessitated the repeal of §175, these were simply expressions of exasperation with the new democratic order.

In 1952 Rolf and Günter, a couple living in West Germany, wrote to *Der Kreis*. They complained about their 'growing realization, that nothing will soon change for us about [this persecution], although the whole public life in Germany has again been guided onto normal and democratic tracks'.⁴⁷ The pair seemed to wonder if the persecution of homosexuals would simply remain part of West Germany's new 'normal and democratic' order. Five years later, after H.L. suggested that homophile voters implement an electoral strategy in 1957, *Kreis* readers unsurprisingly responded with cynicism. Two wrote in to say that they felt compelled to vote for the Social Democratic Party (SPD). Even though the SPD had done little to advance their cause, they hoped the vote would at least hurt Adenauer's deeply conservative and anti-gay CDU.⁴⁸

Likewise, another reader complained in 1951 that while he had had 'full belief in the democratic institutions' of the new country, he had encountered only 'misunderstanding'. 'People remain people and, in the end, make the same mistakes', he concluded: 'Denazification was one of the greatest failures in the history of democracy'.⁴⁹ Here, too, we see gay men disappointed by the lack of alignment between the reality of democratic institutions and their expectations of democratic policy outcomes.

Moreover, these indictments of West Germany began to perceive continuities between the Nazi era and the democratic order. After the 1955 suicide of the jurist Botho Laserstein, who had vocally argued for the repeal of §175, an obituary in *Der Kreis* castigated West German society for how it had driven him to his death.⁵⁰ The author Loy Wenker seethed at the perversity of Laserstein's fate: '1933: persecuted under the Nazis and escaped death! 1955: chased into death under democracy!'⁵¹ This connection between West German democracy and its Nazi past would become a leitmotif of homophile argumentation in the 1960s. Curiously, though, these advocates did not mention suffering in the concentration camps or reference the now-infamous pink triangle, instead focusing on the legal continuities with the Nazi era embodied in §175.⁵² This continuity was most graphically described in Hans-Joachim Schoeps' famous 1963 assertion, 'For homosexuals the Third Reich has not yet passed'.⁵³ Perversely, though, these men did know all too well that the Third Reich had ended, that West Germany had rejoined the club of European nations and was once again following a 'normal and democratic' path. But they began to recognise that when it came to sexual minorities, fascism and democracy might be more alike than different. As the 1950s wore on, it dawned on them that it had perhaps been foolish to place their hopes for a queerer future in the institutions of democracy.

⁴⁶ 'Die deutsche Situation ... 1949!', *Der Kreis*, 17, 4 (1949), 34.

⁴⁷ 'Kameraden schreiben uns', *Der Kreis*, 21, 1 (1953), 3.

⁴⁸ 'Was wir meinen...', *Der Kreis*, 25, 7 (1957), 8.

⁴⁹ 'Irrwege und Umwege zur Wahrheit', *Der Kreis*, 19, 5 (1951), 3.

⁵⁰ For more on Laserstein, see Whisnant, *Male Homosexuality*, 95–6; Jennifer V. Evans, 'Bahnhof Boys: Policing Male Prostitution in Post-Nazi Berlin', *Journal of the History of Sexuality*, 12, 4 (1 Oct. 2003), 628–30; Evans, *Life among the Ruins*, 141–2.

⁵¹ Emphasis in original. Loy Wenker and Jack Argo, 'Dr. jur. Botho Laserstein', *Der Kreis*, 23, 5 (1955), 3.

⁵² Burkhardt Riechers, 'Freundschaft und Anständigkeit. Leitbilder im Selbstverständnis männlicher Homosexueller in der frühen Bundesrepublik', *Invertito: Jahrbuch für die Geschichte der Homosexualitäten*, 1 (1999), 41–3.

⁵³ Hans-Joachim Schoeps, 'Überlegungen zum Problem der Homosexualität', in *Der homosexuelle Nächste* (Hamburg: Furche-Verlag, 1963), 113; Schiefelbein, 'Wiederbeginn', 67.

Turning to the *Rechtsstaat*

Democracy, it seemed by the mid-1950s, could not be queer. Bitterly disappointed by West Germany's conservative Christian morality, its widespread anti-gay animus, and the shadow of the fascist past, homophile advocates questioned their earlier democratic hopes. This development is interesting in and of itself, because it highlights that queer people have not always seen an easy or necessary connection between democracy and their own political aspirations. The triumph of liberal, parliamentary democracy in West Germany – and there is no serious doubt that a liberal, capitalist, and democratic order had indeed taken root in West Germany by the end of the 1950s – was emphatically not a sufficient condition for the toleration of sexual minorities. Indeed, the case of East Germany, which liberalised its laws in 1950 and largely ceased to prosecute consensual, adult homosexual acts in 1957, highlighted that democracy was not even necessary for the success of queer political priorities.⁵⁴

Of course, the persecution of queer men in West Germany was not unique. Most other countries in Western Europe either intensified prosecutions under existing sodomy laws or toyed with the idea of recriminalising male homosexuality in the 1950s.⁵⁵ The US federal government terminated queer employees in a decades-long purge remembered as the 'Lavender Scare'.⁵⁶ But the context of denazification and democratisation lent particular poignancy to the issue in West Germany and led homophile men there in particular to tie their understanding of democracy to the fate of §175.

In questioning the relationship between gay interests and democracy, homophile advocates turned their attention to a different facet of governance, namely the rule of law and the German concept of the *Rechtsstaat*. The *Rechtsstaat*, or state based on the rule of law, has a storied tradition in German thought. Coined in the early nineteenth century by liberal jurists, the term has always been contested. Yet, by the end of the nineteenth century, most German legal theorists agreed that any state which applied its laws equally to all citizens qualified as a *Rechtsstaat*.⁵⁷ This definition makes clear that the rule of law, defined as equal application of law, is not coterminous with democracy, as numerous twentieth-century theorists of liberalism and democracy as well as contemporary historians contend. In recent years, historians have highlighted the existence of both an 'authoritarian *Rechtsstaat*', as Ned Richardson-Little and Michal Kopeček put it, and a democracy without the rule of law.⁵⁸ Turning to the *Rechtsstaat* and the rule of law, homophile activists thus embarked upon a fundamentally different trajectory. Their new rhetoric saw in the equal application of law the salvation of sexual minorities. This strategy would not only take root in West Germany, but also paralleled developments in other liberal democracies and eventually became one of the chief mechanisms for advancing queer policy.⁵⁹

In a 1952 letter to *Der Kreis*, a West German man named Josef complained sardonically about the hypocrisy that while a man living in West Germany's 'splendid *Rechtsstaat* is protected from a state of affairs, which he can, if he wants, protect himself with his powerful fists', he might nonetheless still be

⁵⁴ Huneke, *States of Liberation*, 69; Erik Huneke, 'Morality, Law, and the Socialist Sexual Self in the German Democratic Republic, 1945–1972', PhD thesis, University of Michigan, 2013, 208; Klaus Berndt and Vera Kruber, 'Zur Statistik Der Strafverfolgung Homosexueller Männer in Der SBZ Und DDR Bis 1959', *Invertito: Jahrbuch für die Geschichte der Homosexualitäten*, 12 (2010), 88.

⁵⁵ Wannes Dupont, 'The Two-Faced Fifties: Homosexuality and Penal Policy in the International Forensic Community, 1945–1965', *Journal of the History of Sexuality*, 28, 3 (1 Sept. 2019): 361–3.

⁵⁶ David K. Johnson, *The Lavender Scare: The Cold War Persecution of Gays and Lesbians in the Federal Government* (Chicago: University of Chicago Press, 2009), 1–14.

⁵⁷ Michael L. Hughes, '"Rechtsstaat" and "Recht" in West Germany's Nuclear Power Debate, 1975–1983', *Law and History Review*, 33, 2 (2015), 413.

⁵⁸ Michal Kopeček and Ned Richardson-Little, 'Introduction: (Re-)Constituting the State and Law during the "Long Transformation of 1989" in East Central Europe', *Journal of Modern European History*, 18, 3 (1 Aug. 2020), 279; Annelien De Dijn, *Freedom: An Unruly History* (Cambridge, MA: Harvard University Press, 2020); Rosanvallon, *Democracy*, 209.

⁵⁹ David Minto has recently argued that the evolution of such legal strategies was a transatlantic phenomenon; David Minto, 'Perversion by Penumbra: Wolfenden, Griswold, and the Transatlantic Trajectory of Sexual Privacy', *The American Historical Review*, 123, 4 (1 Oct. 2018), 1093–121.

sent to die on a field of battle.⁶⁰ Already in 1949, 'Juris', who had written to *Der Kreis* about the situation in West Germany, had given up on the new democracy. He recommended leaving the country. But, interestingly, he suggested finding not a democracy in which to settle, but rather 'to search for a new home in a *Rechtsstaat* with a reasonable point of view'.⁶¹ As in previous examples, these writers seethed about the hypocrisy of the West German state. But unlike those other authors, they cast the hypocrisy in terms of the rule of law instead of democracy: rather than envisioning sexual tolerance as a feature of democratic rule, they cast it as a product of right. Homophile groups in the early 1950s also adopted the language of rights, taking such names as the 'Society for Human Rights' in Hamburg and the 'World League for Human Rights' in Bremen and citing documents like the United Nations Universal Declaration of Human Rights.⁶² These developments resembled those in other countries, where homophile groups including the Mattachine Society in the United States or Arcadie in France deployed the language of rights to fight social stigma and persecution.⁶³

In a 1957 article in *Der Kreis*, one C.M. engaged in the question of the relationship between 'homosexualism' and the criminal law. As with other articles, C.M. asserted that criminalising homosexuality was incompatible with modern jurisprudence. Specifically, he accused West German jurists of 'mixing up morality and criminal law', in spite of the fact that 'it belongs to the freedom of the individual that he might also act immorally'.⁶⁴ Unlike those writers who had seen in West German democracy a new dawn for homosexual rights, this article thus made a strategically narrow argument about the role of criminal law in a modern society. He accepted, for instance, that 'rearing young men as well as young women for nubility (*Ehefähigkeit*) is an important task'. But, he insisted, the criminal law had no role to play in that task. In fact, the continuing criminalisation of homosexuality, which he asserted 'does not injure any legally protected interest (*Rechtsgut*)', damaged one's 'sense of right and wrong and with it the *Rechtsstaat* that is today so exceedingly important'.⁶⁵ Again, this language marked a striking turn away from hope in democracy and towards a rights-based language that envisioned only the barest modicum of tolerance for sexual minorities.

As the years passed, this rhetoric coalesced into a particular political strategy to effect the reform of §175. In the 1950s and 1960s, sympathetic lawyers and scientists advanced the narrow argument that the criminalisation of adult, consensual male homosexuality was incompatible with both liberal jurisprudence and modern science. This strategy, which I have elsewhere termed 'scientific liberalism', first tried to win reform through the courts.⁶⁶ When this approach failed, these advocates turned to convincing parliamentary leaders to alter the law. But because these strategies relied on a legalistic interpretation of individual liberty, their advocates never made a positive case for the value of queer minorities in West German society. They were, at base, a plea for tolerance rather than acceptance. And because they formed a strategy founded in the rule of law and not in democratic institutions, they foresaw little role for queer people in their own liberation. In a move familiar to modern conceptions of freedom, then, these citizens came to conceive of their liberty as arising not from the political but rather from restraints imposed on the political.⁶⁷

This legal liberalism, to which West German homophiles turned in the 1950s, was similar to that of which homophile groups in other countries availed themselves in the early Cold War. It has remained a core feature of queer rights activism up through today, informing everything from

⁶⁰ 'Kameraden schreiben uns', *Der Kreis*, 21, 1 (1953), 6.

⁶¹ 'Die deutsche Situation ... 1949!', *Der Kreis*, 17, 4 (1949), 35.

⁶² Rosenkranz and Lorenz, *Hamburg auf anderen Wegen*, 91; Whisnant, *Queer Identities*, 88–90, 102–3.

⁶³ Julian Jackson, *Living in Arcadia: Homosexuality, Politics, and Morality in France from the Liberation to AIDS* (Chicago: University of Chicago Press, 2009), 113; Lillian Faderman, *The Gay Revolution: The Story of the Struggle* (New York: Simon & Schuster, 2015), 53.

⁶⁴ C.M., 'Zur Auffassung der Homoerotik u. ihrer Stellung im Strafrecht', *Der Kreis*, 25, 4 (1957), 11.

⁶⁵ C.M., 'Zur Auffassung der Homoerotik', 11.

⁶⁶ Huneke, *States of Liberation*, 26.

⁶⁷ Hannah Arendt, 'Freedom and Politics: A Lecture', *Chicago Review*, 14, 1 (Spring 1960), 28–46; Danielle Allen, 'Equality and American Democracy: Why Politics Trumps Economics', *Foreign Affairs*, 95, 1 (2016), 23–8.

marriage equality to military service. At the same time, however, historians have increasingly pointed out how the stereotype of the staid, respectable homophile does not always hold water in other national contexts. The activists of Mattachine, Arcadie, and other groups beyond West Germany's borders pioneered new ways of advocating for their interests that were not strictly bound to the narrow language of rights.⁶⁸ When Frank Kameny, leader of the Washington, DC, Mattachine Society, petitioned the US Supreme Court to be reinstated to his government job, he did so not only by invoking his constitutional rights, but also by arguing, in far more radical language, that being gay 'is moral and good and right'.⁶⁹ In West Germany, in contrast, as one homophile organisation after another closed their doors in the late 1950s, those who continued to advocate for §175's repeal did so almost exclusively within the constrained idiom of rights and the rule of law.

Conclusions

In the period of West Germany's democratisation, gay men were preoccupied with thinking about what the state might offer them and even contesting the very definition of democracy. Many of them entered the postwar era hopeful that the Allied occupiers would vacate the Nazi-era laws that criminalised male homosexuality and that their lives might return to the relative social acceptance of the 1920s. But when it came to sexual minorities, West Germany offered more continuity than rupture with the Nazi past. Thousands of men were convicted by West German courts, and homophile writers soon became more sceptical of democracy's promise. Many turned instead to rights-based advocacy, seeing the rule of law as a convenient avenue through which to attack what they perceived as the juridical hypocrisy of §175. In the 1960s, this strategy found more fertile ground, as the so-called sex wave (*Sexwelle*) washed over West Germany and student radicals mobilised to challenge the staid status quo of the Adenauer era.⁷⁰ By the late 1960s, when the Social Democratic Party joined the government for the first time since the Weimar Era, opposition to the law from sexologists, lawyers, and progressive politicians made reform all but certain. In 1969, on the eve of federal elections that would carry Willy Brandt to the West German chancellorship, the Bundestag voted to reform §175 and legalise adult, male homosexuality.⁷¹

This brief examination highlights above all else the complicated history of the relationship between democracy and queerness. In spite of contemporary punditry and scholarship that assumes an innate or causal affinity between sexual liberty and democracy, these homophile theorisations of and experiences with democratisation reveal that there is no historical basis for such an assumption. In fact, in the homophile turn from the language of democracy to the language of right, one might even make out a certain hostility to democracy – in particular democracy defined as the rule of the majority – on the part of sexual minorities. Only recently have LGBTQ initiatives found success at ballot boxes in the United States and Europe. For many years queer political efforts had to rely on largely anti-majoritarian tactics to win policy change. In the West German homophiles' agonising over democratisation, we see the roots of such strategies as well as the fuzzy logics that informed their perceptions of democracy.

⁶⁸ Jackson, *Living in Arcadia*, 57; Martin Meeker, 'Behind the Mask of Respectability: Reconsidering the Mattachine Society and Male Homophile Practice, 1950s and 1960s', *Journal of the History of Sexuality*, 10, 1 (2001), 78–116.

⁶⁹ Eric Cervini, *The Deviant's War: The Homosexual vs. the United States of America* (New York: Farrar, Straus and Giroux, 2020), 108.

⁷⁰ See Timothy Scott Brown, *West Germany and the Global Sixties: The Anti-Authoritarian Revolt, 1962–1978* (Cambridge: Cambridge University Press, 2013), 286–329; Uta G. Poiger, *Jazz, Rock, and Rebels: Cold War Politics and American Culture in a Divided Germany* (Berkeley: University of California Press, 2000), 218–23; Herzog, *Sex after Fascism*, 141; Huneke, *States of Liberation*, 95–100.

⁷¹ For more on the 1969 reform of §175, see Robert G. Moeller, 'Private Acts, Public Anxieties, and the Fight to Decriminalize Male Homosexuality in West Germany', *Feminist Studies*, 36, 3 (2010), 528–52; Whisnant, *Male Homosexuality*, 166–203.

These ruminations on the history of queerness and democratisation in postwar Germany also highlight why it was that the philosopher W.B. Gallie included democracy among what he termed ‘essentially contested concepts’, that is, concepts for which ‘there is no one clearly definable general use . . . which can be set up as the correct or standard use’.⁷² In this specific case, homophile advocates and gay citizens had no clear definition of what democracy meant. To many, it suggested nothing so much as a return to the Weimar era. Others took it as a wholesale rejection of the Nazi regime, forgetting, perhaps, that National Socialism had in fact enjoyed the support of a considerable slice of the population.⁷³ Still others understood democracy as a grab bag of liberalism: a miraculous concatenation of popular will, protection of minorities, and the rule of law. To use Sara Ahmed’s term, we might think of gay men in this period as going through a process of orientation vis-a-vis the democratic norms and institutions then taking shape in West Germany.⁷⁴ Their earlier writings reveal efforts not only to orient themselves in those terms, but also to orient those new democratic ideals toward their own understanding of what democracy was and should do. When that failed, they found an orientation better suited to their needs, one that fell along the axis of right rather than the axis of the (parliamentary) political.

There is no reason, however, to assume that only gay men were engaging in these kinds of conversations, thinking through the meaning and implications of democratisation. There is, to begin, every reason to suspect that other queer populations were engaging in their own creative negotiations with democratisation. Moreover, as Sean Forner has similarly argued of German intellectuals, most West Germans, even as they were distracted with finding food and shelter in the early postwar years, were also likely preoccupied with understanding, shaping, and taking advantage of the new democratic order.⁷⁵ They too likely held disparate views of what democratisation meant theoretically as well as what it would mean for their lives. The idiosyncratic entanglements of queerness and democratisation in postwar Germany thus point to the mutability of democracy and to its inherently ‘contested’ nature, something we would do well to grapple with in our own era, as liberal democracy once again appears unequal to the tasks with which it is faced.

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⁷² W. B. Gallie, ‘Essentially Contested Concepts’, *Proceedings of the Aristotelian Society*, 56 (1955), 168.

⁷³ Robert Gellately, *Backing Hitler: Consent and Coercion in Nazi Germany* (New York: Oxford University Press, 2001), 15.

⁷⁴ Sara Ahmed, *Queer Phenomenology: Orientations, Objects, Others* (Durham: Duke University Press Books, 2006).

⁷⁵ Forner, *German Intellectuals*, 74–113.

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