



Review

Reviewed Work(s): Sexuality, State, and Civil Society in Germany, 1700-1815 by Isabel V. Hull

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historical studies. The idea of a discipline of the idle, of the able-bodied poor, and of the unemployed seems to express them. Criticism of a declining empire with an outmoded constitutional structure and ineffectual welfare policies characterizes Rudersdorf's general argument. Möser appears to have been one of the first German bourgeois officials to reject the "well ordered" state of eighteenth-century paternalism. Yet he consistently adhered to a policy of local initiatives and local provision of the poor. The ordinances of 1766, 1774, and 1783 all repeated the emphasis on parish support of the poor, which proved inadequate when there was a real economic crisis accompanied by armies of begging poor. The modernization of the political structures during the Napoleonic era produced a rationalization and a centralization of funds used for welfare. A modern prison, supported by the estates, accommodated both criminals and workhouse poor.

Emergencies and disasters have never been easily relieved. Coping with them has always been a matter of finding additional funds, as was also the case in Möser's time. The history of such crises transcends any discussion of the economic forces at work. Rather than ideas about mercantilism and economic liberalism, those of community solidarity seem to be more useful. Möser's work took such forces into account so that his ideas could easily bridge the gap to the modern system.

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ISABEL V. HULL. *Sexuality, State, and Civil Society in Germany, 1700–1815*. Ithaca: Cornell University Press. 1996. Pp. xiii, 467. \$39.95.

Beginning in the late eighteenth and early nineteenth centuries, the absolutist state in Germany renounced its moral stewardship over broad areas of sexual behavior. A range of consensual sex delicts once subject to harsh punishment (for example, fornication, sodomy, and bestiality) were decriminalized, and the Bavarian Criminal Code of 1813 even removed homosexuality and prostitution from its purview. As Isabel V. Hull argues, the significance of these measures went far beyond sex; their enactment was a key moment in the genesis of liberal civil society. Championed by absolutist reformers increasingly skeptical of the efficacy of state coercion, and envisioned by early liberal theorists as a realm of freedom autonomous from the state, civil society was now entrusted with the task of regulating itself.

The emergence of civil society as a sphere of freedom has been the object of social analysis at least since G. F. W. Hegel's *Philosophy of Right* (1821) tackled the issue. Historians customarily highlight the socio-economic aspects of this process, focusing on the rise of market society or the new forms of associational life that began to emerge in the eighteenth century. Hull, however, is interested in civil society as a sexual construct. Like Carole Pateman, she believes that

modern civil society is historically rooted in profoundly gendered ideals of citizenship. Its early apostles (or what Hull calls the "practitioners of civil society") were the intellectual offspring of an Enlightenment that, for all the universality of its claims, was deeply masculinist in outlook. As the products of a literary market and institutions of sociability dominated by men, the practitioners of civil society almost without exception made active citizenship an exclusively male preserve. Hence Immanuel Kant and Johann Gottlieb Fichte, for Hull the preeminent representatives of early German liberalism, viewed women as generally incapable of active citizenship: Kant owing to their lesser capacity for reason, Fichte because of their natural passivity and state of dependence in marriage.

Oddly, it never occurs to the author to ask what German women of the period thought of early civil society and its sexual norms. Instead we are told that "though women [in the late Enlightenment] read, they did not publish" (p. 207), which presumably explains why the bibliography of primary sources does not include a single work written by a woman. According to my count, in more than 400 pages of text and some 1500 footnotes, the voices of early modern German women appear exactly twice: once in a 1654 request by Maria Anna, the regent and electress of Bavaria, for data on the sexual delicts of her subjects (p. 71), and once in a 1713 decree by the margravine and regent of Baden, Francisca Sybilla Augusta, calling for harsher penalties against fornication (p. 96).

The problem is that German women of the late eighteenth and early nineteenth centuries did of course publish, a great deal, as a matter of fact. Not only did the German Enlightenment give birth to the first novels written by women; one of them, Sophie von LaRoche's *Geschichte des Fräuleins von Sternheim* (1771), has been called the first sentimental novel in Germany, the first full-fledged German epistolary novel, and the first German *Bildungsroman* to have a woman as its central character (see Christa Baguss Britt's introduction to her fine English edition of LaRoche's *History of Lady Sophia Sternheim* ([1991], p. 3). If, moreover, this nascent civil society were so thoroughly masculine, so premised on the exclusion of women from public roles, how does one account for the fact that the most important institution of intellectual sociability in the late eighteenth century was arguably the salon, and particularly the salons of Henriette Herz in Berlin and Fanny von Arnstein in Vienna? And if the exclusion of women was intrinsic to the Enlightenment project, how does one explain the publication of a feminist tract like Theodor von Hippel's *On Improving the Civil Status of Women* (1792)? Hull in fact gives an insightful analysis of Hippel's treatise, which was composed as a polemic against the failure of the French Revolution to cede full civil and political rights to women. Doubtless she is right to argue that his feminism was the exception and not the rule among late Enlightenment theorists. But if a masculinist discourse of sexual and gender exclusions

was so deeply embedded in the putatively universalist principles of the new civil society, how could Hippel's emancipatory conclusions ever have been conceivable in the first place?

Hull's final section focuses on Bavaria and Baden and seeks to show how the sexually discriminatory norms of the new civil society found concrete expression in the law codes of Napoleonic Germany. Her treatment reveals that the decriminalization of consensual sexual delicts was more apparent than real. For although the Bavarian Criminal Code did not concern itself with delicts like prostitution and sodomy, these offenses were still subject to punishment. The police, now conceived as the regulatory agents of the new civil society, were given wide berth in punishing sexual acts deemed to be "offenses against public decency." At the same time, the relatively evenhanded treatment of women that had characterized absolutist sexual regulation gave way to more discriminatory provisions. Adultery remained a crime under the 1813 Bavarian code, and female offenders were punished more severely than male ones. In the archduchy of Baden, where a modified version of the *Code Napoléon* was introduced in 1809, the new civil code "all but made maleness a privileged *Stand*" (p. 375). So while a Baden husband could divorce his wife, she enjoyed that right only if her husband moved his lover into the house. In the name of protecting (male) privacy and securing the inheritance rights of legitimate children, the Baden code also curtailed a out-of-wedlock mother's ability to secure child support from the biological father. Overall, concludes Hull, the law codes of the early nineteenth century constructed a model of civil society that made active citizenship the exclusive preserve of the married, property-owning male. They codified a new sexual system that, in dichotomizing the male as active and the female as passive, laid the sexual foundations for the nineteenth century and its gendered polarities of public and private.

Here it is dangerous to generalize about social practices and ideologies on the basis of legal statutes, all the more so since Hull assigns an enormous amount of analytical weight to a rather small number of them. In the United States, adultery remains a felony in Massachusetts, Wisconsin, Michigan, Idaho, and Oklahoma. I would be loath, however, to draw conclusions about marital fidelity in *fin-de-siècle* America based on those statutes. In the German case, the intense debate sparked by attempts to introduce the sexual provisions of the Baden and Bavarian codes suggests anything but a consensus among practitioners of civil society. For Hull, however, these provisions signaled nothing less than the birth of the modern sexual system. Framing Hull's account is a master narrative—once dominant in the writing of women's history—according to which the transition to modernity that occurred roughly between 1750 and 1850 was a disaster for women. It marked the triumph of a "separate spheres" ideology, securely anchored in notions of sexual difference,

through which women's status became purely derivative from their roles as wives and mothers.

Here is not the place to explore the limitations of this narrative, which Amanda Vickery recently subjected to brilliant scrutiny in her "Golden Age to Separate Spheres? A Review of the Categories and Chronology of English Women's History" (*Historical Journal* 36 [1993]: 383–414). It is at any rate a narrative that Hull postulates more than proves. In the end, her book fails to persuade, above all because the women whose lives and sexual behavior were regulated are utterly invisible. Their location in Hull's "sexual system" is immobile. The reader never knows whether they resisted or complied with this system, because they do not speak. Their silence is understandable insofar as the administrative and legal sources consulted by Hull were written by men. It is baffling for a period in which novels, periodicals, and advice manuals penned by women proliferated. Did the female authors of this literature really have nothing to say about civil society? Did women contribute nothing to the new sexual system except as foils for the legislation that shackled them? Is it possible that this legislation, far from signifying women's social fettering in civil society, was a defensive response to their growing participation in it? This book not only fails to answer these questions; it never even poses them. It is, in short, a history of sexuality with the women left out.

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DORIS KAUFMANN. *Aufklärung, bürgerliche Selbsterfahrung und die "Erfindung" der Psychiatrie in Deutschland, 1770–1850*. (Veröffentlichungen des Max-Planck-Instituts für Geschichte, number 122.) Göttingen: Vandenhoeck und Ruprecht. 1995. Pp. 361. DM 78.

Few topics in German history (at least, German history before 1900) have received more scholarly attention in the last decade than the constitution of civil society and the construction of a middle-class identity. Jürgen Habermas's inquiries into the "project of the modern" as well as Norbert Elias's theories about a "civilizing process" have greatly influenced the development of these subjects. In medical histories written about the period the most prominent and authoritative voices have been those of Michel Foucault and the adherents of professionalization theory. Doris Kaufmann combines all these perspectives to produce a work rich in ideas about the origins of a middle-class identity in Germany, about the "discovery" of psychiatry, and about the rise of medical expertise in the nineteenth century. She neither slavishly follows nor totally accepts any of her exemplars. Rather, on the basis of printed and archival materials (in particular, a series of engrossing case studies), Kaufmann rigorously tests theory against practice. The author offers a subtle, yet provocative vision of how the evolution of a specific middle-class identity derived (at least in part) from the contemplation of madness. Kaufmann skillfully weaves