

## Socialism, Social Rights, and Human Rights: The Case of East Germany

One of the most vigorous cottage industries of Cold War commentary concerned the intrinsic incompatibility of Eastern Bloc socialism and human rights. For decades Western publicists tirelessly criticized the Soviet Union and its satellite states for ignoring or violating human rights in their national territories, dismissing communism's touted commitment to these international ideals as cheap lip service used to mask the Orwellian unfreedom and flagrant governmental abuse of Second World authoritarianism. For many observers the inability of Amnesty International and other human rights watchdog organizations to make a significant dent in the political armor of socialist regimes only bespoke the sorry state of civil rights behind the Iron Curtain.<sup>1</sup> Such incompatibility was attributed either to the principles of Marxism itself or to the draconian practices of the "communist establishment," whose "uncivil society" was judged by the disregard with which it trampled individual liberties and civil rights.<sup>2</sup> What relatively scant coverage is given to the history of rights in Eastern Europe usually focuses on the unexpected consequences of the legendary 1975 Helsinki Accords, and in particular how the so-called Basket III Agreements sparked a nascent civil rights movement across the Eastern Bloc that deftly capitalized on the new lexicon of human rights to challenge the legitimacy of socialist governments across the region.<sup>3</sup> The Helsinki Accords are generally seen as the moment when human rights were given a new lease on life, insofar as the lofty universalist principles of the 1940s regained momentum east of the Berlin Wall. But here too the history of human and social rights in the Eastern Bloc has largely been written from the standpoint of how these regimes did—or really, did not—measure up to Western liberal understandings of these rights ideals.

Little attention by contrast has been given to the communist understanding of such rights. While no one would deny state socialism's infamous flouting of the law and due process, nor the remarkable reach and well-known exploits of Eastern European state security forces, rights issues were hotly debated themes in countries like the German Democratic Republic (GDR) from the very beginning, reflecting as they did shifting ideals about the relationship between socialist citizen and society. Yet until very recently the historiography of human rights has been shaped by American perspectives on the subject, often in terms of how human rights served as a kind of Roosevelt-style "New Deal for the World."<sup>4</sup> Others identify alternative national traditions. Jay Winter, for example, has argued that the French Resistance hero René Cassin was the real architect of the 1948 Universal Declaration, to the extent that he

“aimed to resurrect French political culture by turning back to the Universal Declarations of 1789 and 1793,” driving home the ironic point that “it was precisely at the moment of the most spectacular failure of the French republican tradition that Cassin set himself the task of universalizing one of its central messages.”<sup>5</sup> Still others have located the development of human rights farther afield, such as South Africa, India, the Philippines, and Latin America.<sup>6</sup> Interest in the Soviet conception of social and human rights is only now being taken more seriously as a field of international rights research in itself. At first glance this may appear odd, given that communist governments made no bones about their firm conviction that human rights were neither natural nor inalienable, countering that rights were always manmade, politically determined, and something to be conferred by the state in its effort to transform society, politics, and people. But it is worth recalling that the Soviets were present at the human rights discussions at Nuremberg and San Francisco and played a key if forgotten role in helping shape such documents as the Genocide Convention and Universal Declaration of Human Rights.<sup>7</sup> Yet it is the divergent understanding of these rights which is crucial.<sup>8</sup> The common perception that the Cold War was a battle between a U.S.-sponsored “empire of liberty” and a Soviet-style “empire of justice” was also reflected in the divergent views of human rights after 1945.<sup>9</sup>

In this essay, I would like to explore East Germany as a case study of state socialism’s “rights regime,” concentrating in particular on how such rights became fundamental elements of socialist justice and entitlements. Emphasis will fall on how socialist publicists—initially hostile to Western human rights talk—eventually found a way of accommodating human rights with socialist ideals long before Helsinki. East German citizen rights may never have added up to Western civil and political rights, but they were in keeping with what T. H. Marshall long ago called modern “social rights,” defined as “the right to a modicum of economic welfare and security . . . to live the life of a civilized being according to the standards prevailing in society.”<sup>10</sup>

Human rights and socialism were judged at odds by East and West alike in the first two decades after World War II, albeit for different reasons. After 1945, communist theorists were not shy about voicing their suspicion and disdain toward the “rebirth of natural law” associated with universalist notions of human rights. For them, human rights wrongfully posited a metaphysical, natural, and/or “anti-historical” conception of humanity, one that perniciously masked class-based injustice and violence. They also objected to a conception of humanity that was built on individual rights and privileges antecedent to and outside of the state. In this they were dutifully following Marx’s classic pronouncements from his *Theses on Feuerbach* (1845), where he wrote that “humanity” (*das menschliche Wesen*) is based “not on an abstraction of the single individual” but rather was an “ensemble of societal relations and conditions.”<sup>11</sup> Political and civil rights were inseparable from economic rights, so went the logic, akin to the way that the superstructure sat on top of the base. Only from the soil of economic freedom and equality would such rights spring, and communist ideologues made this point clear from the late 1940s onward. They enjoyed citing Stalin’s 1937 rhetorical question, “What can ‘personal freedom’ mean for the unemployed, who goes around hungry and cannot find any application for his work capacity? Only when exploitation is overcome, when oppression of one person

by another, when unemployment, begging and fear of finding work, bread and a place to live are no more—only then will true freedom be found.”<sup>12</sup>

Not that skepticism toward human rights was the preserve of the communist left. A clutch of central nineteenth-century thinkers—ranging from Burke to Bentham to Mill—vented their antipathy toward the recognition of human rights for international law, lampooning these as “nonsense upon stilts.”<sup>13</sup> Edmund Burke took particular relish in attacking such abstract rights language when he remarked, “What is the point of discussing a man’s abstract right to food or medicine? The question is upon the method of procuring and administering them. In that deliberation I shall always advise to call in the aid of the farmer and the physician rather than the professor of metaphysics.”<sup>14</sup> It was this more materialist tradition of rights that was fundamental to communist theory, as the “state-made person” (*der verstaatliche Mensch*) was elevated as the particular variant of socialist citizenship and rights culture.<sup>15</sup> Indeed, Lenin’s new Soviet Constitution of 1918 was less interested in the content of stated freedoms (be it freedom of conscience, expression, assembly, and/or association) than in “announcing what the state is obliged to do materially to facilitate their realization by the newly privileged elements of the population.” In Marxist thought, there was no such thing as rights without duties and vice versa, as Marx put it in his draft for the “Rule of the First International.”<sup>16</sup> Such a view was built on a notion of “active” citizenship in which only engaged, productive, and cooperative citizens were guaranteed material support for the realization of their rights. Stalin’s famed 1936 constitution extended this logic even more so, as the state legally was to provide citizens material well-being, expressing “these guarantees [housing, education, etc.] in the same language as was used to grant the more traditional civil and political (electoral) rights.”<sup>17</sup> In this sense, communists had little truck with T. H. Marshall’s historical evolution of such rights—according to which eighteenth-century civil rights expanded into nineteenth-century political rights, which in turn evolved into twentieth-century social rights—as articulated in his influential *Citizenship and Social Class* (1949), in that for Marxists such rights arrived together and were integrally related as a necessary consequence of radical economic transformation.

By the late 1940s human rights had become a favorite political football of Cold War ideological rivalry between East and West, wherein issues of poverty, misery, and unhappiness were sensationalized on both sides of the Iron Curtain to showcase the superiority of the respective system. On the one hand, Western publicists used human rights as a cudgel with which to lambast Soviet despotism behind the Iron Curtain, and in so doing they helped consolidate a new Cold War anticommunist consensus. The creation of the Council of Europe and the 1950 promulgation of the European Convention on Human Rights were articulations of a new Western European solidarity that downplayed old national differences by setting itself as a bloc against its Eastern European counterparts.<sup>18</sup> Whereas the Universal Declaration covered general issues such as the rights to assembly, work, free speech, and healthcare, the 1950 convention stressed specific rights that departed from the broader 1948 vision. Among them were the sanctity of law; the prohibition of compulsory labor; “liberty and security of the person”; due process in court; freedom of thought, conscience, and religion; as well as the clause that “everyone has the right to respect for his private and

family life, his home and his correspondence”—all expressly liberal values that communists interpreted as bluntly directed at their regimes.<sup>19</sup> In fact, the assertion of the “right to privacy” as a fundamental human right emerged as one of the doctrinaire distinctions between West and East over the course of the 1960s and 1970s.<sup>20</sup> Denouncing human rights abuses in the Eastern Bloc became a common way of distinguishing Western from Eastern Europe in the 1950s, in effect making human rights itself anticommunist.<sup>21</sup> This new Western European “regional rights regime” even targeted itself at times, most dramatically attested in the Council of Europe’s suspension of Greece’s membership following the country’s 1967 military coup.<sup>22</sup> On the other hand, the USSR never tired of pointing out the hypocrisy of the West in its own orbit, depicting Western poverty, unemployment, and misery as human rights violations in their own right. The parlous fate of African Americans in the U.S. South during the civil rights struggle became a favorite communist reference point for drawing attention to American state brutality and racial politics over the course of the 1960s.<sup>23</sup> In response the West shot back that freedom of movement was a core human right, one routinely violated in Soviet-occupied Europe in general and East Germany in particular. This was most pronounced regarding the 1961 construction of the Berlin Wall. A 1962 brochure titled *The Berlin Wall: A Defiance of Human Rights*, published by the International Commission of Jurists, opened by stating, “The great walls of the past were erected to repel invaders and barbarians. The Wall in Berlin is unique because its object is to prevent the men and women behind it from reaching freedom.”<sup>24</sup> Angry polemics against violations of East German human rights became a staple of Cold War rhetoric in the West, especially in West Germany, complete with photographs of ominous guard towers and barbed-wired no-go zones.<sup>25</sup> No less egregious an example of the Cold War makeover of human rights was the fact that from 1955 onward the West German human rights journal *Die Menschenrechte*, published by the West Berlin chapter of the German League for Human Rights, began a regular feature that drew parallels between Nazi and communist crimes, juxtaposing “stories of victims of Nazism with stories of victims of East German Stalinism.”<sup>26</sup>

Other reasons too accounted for Soviet skepticism toward human rights. Here it is worth remembering how human rights were being reworked from a decidedly religious perspective over the course of the 1940s and 1950s. As Samuel Moyn and others have shown, human rights were often understood as a distinctly Christian project, as pivotal intellectuals within the churches (especially Catholics in France and Britain) viewed such rights as a blend of spiritualism, individualism, and humanism—what was called “personalism” at the time—that supposedly predated and transcended the world of politics. Pope Pius XI set the tone in a 1937 encyclical by proclaiming the sanctity of “divine and human rights.” Progressive American Catholic intellectuals followed suit by founding the publication *The Voice for Human Rights* in 1939. The British Catholic commentator Christopher Dawson captured the idea of human rights as Christian resistance when he wrote in early 1942, “What we are defending, in short, is not democracy but humanity.”<sup>27</sup> The point is that the postwar rise of human rights was closely bound with the moral reconstruction of Christian-democratic Western Europe, and such a moral politics was very much part of the broader conservative campaign to “re-recast bourgeois Europe” as a new civilizing mission in its own

right.<sup>28</sup> By the early 1950s the Christian dimension of human rights emerged as a main fixture of the anticollectivist, “antitotalitarian” consensus across the West. The ongoing “Christianization” of human rights reached its apogee in the early 1960s, as Pope John XXIII issued his encyclical *Pacem in Terris* (1963), which linked Catholicism and human rights.<sup>29</sup> What is more, this conception of human rights was explicitly used as Cold War propaganda to discredit the USSR. In 1947–48, for example, Hungary, Bulgaria, and Romania were barred from the UN on the grounds that the communist takeovers there violated the “human rights and fundamental freedoms” of people living in these countries.<sup>30</sup>

In spite of this hostile climate, the Soviet Union showed new interest in human rights talk by the mid-1950s. While Stalin toed the classic Marxist line in dismissing the UN Declaration as a bourgeois ruse by Western states to dress class-based privileges as universal rights, the terms of the debate began to change under Khrushchev. The change of attitude was essentially spurred by two developments. The first had to do with the seismic global trend toward decolonization and the emergence of a new international language of liberation and rights for all, as the Soviets began to exploit the lexicon of human rights (and national sovereignty) to garner support in Asia and Africa. Second, the USSR warmed to human rights talk given the official distancing of the United States from human rights language over the course of the 1950s, not least in relation to its own civil rights breaches in the American South.<sup>31</sup> Internal factors also played a role. Under Khrushchev the USSR’s introduction of this new lexicon of rights was portrayed as a welcome sign of post-Stalinist political legitimacy. This was particularly so in light of the much-touted concept of “socialist legality” as a rejection of arbitrary rule in favor of procedural norms and rationalized government, which was used to show that the Soviet Union had become more civilized in its political culture. A Human Rights Day was even consecrated in the USSR in 1957.<sup>32</sup> Repeatedly Khrushchev made clear that citizen rights were to play a key role in the new Soviet Union, symbolizing the ways in which the regime was supposed to be moving from terror and coercion to rights and cooperation.<sup>33</sup>

The “discovery” of human rights in East Germany was a child of the 1960s. Until that point the SED had officially dismissed human rights as merely serving the “protection of the dominant classes in the West,” and what little discussion there was on the subject tended to take aim at the apparent hypocrisy of the West’s “bourgeois ideology” of human rights in living up to its own claims of law and justice at home. By the early 1960s, however, human rights were embraced as part of the “multi-faceted development of the human personality in society.”<sup>34</sup> The GDR’s new interest in human rights arose from a patently political origin: the Federal Republic’s Supreme Court ban of the Communist Party in 1956 spurred the 1959 creation of the GDR Komitee zum Schutze der Menschenrechte gegen militaristische Willkür und Klassenjustiz in Westdeutschland (Committee for the Protection of Human Rights against Military Despotism and Class Justice in West Germany), after which its name was shortened to the Komitee zum Schutze der Menschenrechte. In the late 1960s the committee expanded its brief to include the deployment of human rights as constitutive of the international class struggle, directing its publicity toward West Germany and the wider world. The main themes were the struggles against “colonial, racist and

military-fascist subjugation,” as well as peace, education for all, and equality of the sexes.<sup>35</sup> By the 1970s the proclaimed “right to peace” was identified as the chief issue for socialists in the fight against the Cold War itself.<sup>36</sup> This right to peace has long been a forgotten element of the period, even in recent literature such as Konrad Jarausch’s *After Hitler: Recivilizing Germans, 1945–1995* (2006). In it, special emphasis is placed on the salutary effects of Allied re-education officers, market engineers, journalists, and a “liberal public sphere” in effectively pacifying Germany’s warring ways, which helped return (West) Germany and Germans to the path of Western civic culture. For Jarausch, the return to civilization that began with the Nuremberg Trials and eventually incorporated East Germany in 1989 is a great—if underestimated—success story of American-led German liberalization, as Germany’s “military spirit transform[ed] itself into a more civil, peaceable outlook.”<sup>37</sup> Others have made a similar argument for Western Europe more generally, seeing the remarkable demilitarization of the Western half of the continent after 1945 as the one of the seismic transformations of postfascist Europe.<sup>38</sup> Yet similar trends were at work in Eastern Europe as well. For its part, the GDR also built its national identity and mission around the principle of peace, and its internationally oriented rights literature repeatedly made clear that peace was championed as an urgent social and even human right that could only be granted and guaranteed by enlightened socialist states. Soviet publicists engaged in similar efforts, exploiting peace, welfare, and even the defense of children as particularly Soviet contributions to postwar rights culture.<sup>39</sup>

By the 1970s the GDR had invented a new tradition of human rights in a Marxist key, built on touchstone documents from the English Diggers to the present. Over and over East German publicists intoned that the rights of citizens under socialism were more genuine and far-reaching than their Western equivalents, to the extent that they were closely bound to practical political, economic, and even cultural rights—and not simply composed of dreamy, abstract civil rights. The favorite object of derision was the 1950 European Convention on Human Rights, which was condemned as a sinister ploy to champion an exclusively Western view of human rights (based on private property above all), in effect subverting the broad-tent tone of the 1948 Universal Declaration. In the East German rights documents, by contrast, the preferred reference points were the UN’s 1966 International Covenant on Economic, Social and Cultural Rights, which returned to the more ecumenical ethos of the 1948 declaration and its stated unity of political and economic rights.<sup>40</sup> Article 11 of the 1966 covenant, for instance, stipulated “the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing, and housing, and to the continuous improvement of living conditions,” while Article 12 recognized the “right for everyone to the enjoyment of the highest attainable standard of physical and mental health,” a clause which eventually became the guiding principle of the World Health Organization.<sup>41</sup> The Final Act of the long-forgotten 1968 Teheran Conference on Human Rights was also hailed for having adopted a more holistic and non-bipolar view of human rights as “welfare rights” for all peoples and political regimes. The conference itself—led by newly decolonized countries—marked a shift from the “Western-inflected concept of individual human rights exemplified in the 1948 Universal Declaration to a model that emphasized economic development and

the collective rights of the nation.”<sup>42</sup> The East German literature liked to quote Clause 13, which stated, “Since human rights and fundamental freedoms are indivisible, the full realization of civil and political rights without the enjoyment of economic, social and cultural rights is impossible. The achievement of lasting progress in the implementation of human rights is dependent upon sound and effective national and international policies of economic and social development.” This was viewed as international confirmation of the Marxist contention that economic, political, and cultural rights were tied together, wherein, as another brochure put it, “guaranteeing economic and social rights is also the basis for the fulfillment of other human rights.”<sup>43</sup> Furthermore, the socialist premium on the right to work and equality for women was seen as the genuine expression of human and social rights.

By the early 1980s Marxism and human rights were declared not only compatible but even coterminous. In Hermann Klenner’s 1982 *Marxismus und Menschenrechte*, for example, the spirit of Winstanley, the 1776 Virginia Bill of Rights, Rousseau, Paine, the 1789 Declaration of Man and Citizen, Burke, Hegel, Marx, Bebel, and Luxemburg were all enlisted as part of the family tree of socialist human rights.<sup>44</sup> Leszek Kolakowski may have been right when he remarked ironically that the famous line in the German version of “L’Internationale”—“Die Internationale erkämpft das Menschenrecht” (The International fights for human rights)—was mainly incorporated to rhyme with the previous line (“Völker, hört die Signale! Auf, zum letzten Gefecht!”); yet by the early 1980s the human rights refrain from “L’Internationale” was presented as the cornerstone of the new union of human rights and socialism.<sup>45</sup>

Such views could also be seen in the GDR’s publicity surrounding human rights published in the 1960s and 1970s, much of which was published in English in an effort to win influence abroad. One 1968 brochure published by the Committee for the Protection of Human Rights, *Socialist Human Rights in the German Democratic Republic*, insisted that human rights were constitutive of socialism: “without socialism, no human rights.” It sniped at West German rights violations, arguing that the GDR was much closer in spirit to the UN Convention on Human Rights of 1966 than its West German counterpart. The realization of socialist rights was measured in terms of rising national income, industrial production, a five-day work week, and an improved standard of living. More concretely, the prized “basic rights” in the GDR were listed as the rights to work, recreation, education, health protection, material assistance, and cultural and sports activity. Further emphasis was placed on cooperation and co-management, underscoring that under socialism civil rights were not formulated as rights of the citizens against the state but rather within it.<sup>46</sup> Human rights were not simply a new language of political claim-making; they also furnished a decisive aspect of shoring up ideological legitimacy and identity. Another 1976 book, revealingly called *Freedom, Democracy and Human Rights—for Whom and for What? The GDR Presents Its Views*, restated the case about the virtues of socialist democracy for an international audience in the wake of the Helsinki Accords signed the year before. In this case, the emphasis was squarely on “human dignity,” notably defined here as a secure income, “democracy on the shopfloor,” “equal rights for all,” “parliaments but no parliamentarianism,” and a “decent life for all” as a result of massive state investment in housing, education, recreation, culture and sport, as well as the

“end of exploitation.” Again, the West was portrayed as falling woefully short of its own claims; one section concluded by saying that “there are no slums, shanty-towns and hostels for the homeless in the GDR. Land speculation is ruled out . . . extortionism by landlords and rent increases are unknown.” It questioned the freedom of the Western unemployed and cited West German loyalty oaths in the workplace as a human rights violation. Moreover, it argued that the GDR was actually taking international cultural exchange seriously, as stipulated in the Helsinki Accords, boasting that the GDR had imported some 200 films from France and another 150 from Italy over the last 25 years, while these same Western countries had allegedly turned a blind eye toward the film culture of their socialist neighbors.<sup>47</sup>

Of special interest is the visual dimension of these arguments. In GDR publications it was not unusual to include punchy photographs to dramatize the larger polemic. In the booklet discussed above, there were images of engaged youth in discussion, families enjoying new housing, women on the shop floor, health services, museum goers, and families on picnics. By contrast, images of the West included slums, job-queueing in Britain, civil rights unrest in the United States, Japanese workers on strike, and blacklisted West German communists. All of these images were part and parcel of the regime’s effort to advertise the virtues of socialism by undermining the claims and promises of its Western rivals. Efforts to visualize glaring discrepancies in poverty and standards of living to underscore political legitimacy in each Cold War bloc were commonplace from the late 1940s onward. Illustrated magazines in both the Western and Eastern occupied zones of Germany, for example, routinely depicted their local government as ably provisioning the local population with housing and food, while demonizing the rival occupier as incompetent and cruel in its maladministration of shelter, foodstuffs and basic services.<sup>48</sup> To be sure, endeavors to “picture poverty” and to discredit home governments harked back to the long tradition in leftist photojournalism in the United States and Europe of chronicling the poor as a means to catalyze social reform at home; this impulse was elevated to an impassioned plea to action for Weimar-era realist photographers, whose tradition and stylistic tendencies were revived after 1945.<sup>49</sup> But whereas the Soviet and American varieties of social photography were quite similar in approach and tone during the 1930s, this changed dramatically after the end of World War II.<sup>50</sup> Postwar division found its way into the representation of misery and poverty, as evidenced in the different style of photographing decimated Berlin and Berliners by American and Soviet photographers, with varying degrees of contempt toward and compassion for defeated former enemies.<sup>51</sup> With time these divergent visual styles sharpened in line with divergent Cold War understandings of decency, morality, and social justice. Herbert Riecke’s polemically titled book *Rental Barracks in Capitalism, Living Palaces in Socialism* (1954) was an effort to use housing as a litmus test of each bloc’s commitment to its people and their material welfare, complete with sensationalized photographs of Western misery and Eastern prosperity.<sup>52</sup> Such visual rivalry often took on concrete expression at international venues, as West and East German governments showcased the fruits of economic progress and prosperity—measured in terms of health, hygiene, and basic services—to win adherents abroad, as evidenced in each country’s national industry exhibitions in Africa in the 1950s and 1960s.<sup>53</sup> This

polemical photographic style was still used through the 1980s to dramatize the differences between East and West on the issue of human rights. In his book *As Fragile as Glass* (1988), Werner Flach included a range of pictures used to pour scorn on Western hypocrisy and failed social policies supposedly alien to socialism, as exemplified by AIDS marches, West German drug addicts, American homelessness, world hunger, and even desertification.<sup>54</sup> At first glance this looks like garden-variety Cold War propaganda in its attempt to puff up its own political bloc in terms of supposedly making good on the promise of delivering a world based on “freedom from want” and social justice. But it also shows how human rights had become what Michael Ignatieff has called the “lingua franca of global moral thought,” especially in an era in which human rights issues were not being enforced.<sup>55</sup>

But if human rights until the 1970s mostly served as a means of Cold War mudslinging, with little concrete action, social rights by contrast assumed central importance in Eastern Europe from the very beginning of the postwar period. World War II was a transformative international moment in the union of government and social welfare for all of the belligerent countries, signaling their renewed commitment to sweeping postwar social welfare reform. Britain’s Beveridge Report of 1942 and Franklin D. Roosevelt’s “Second Bill of Rights” two years later cemented a kind of antiliberal consensus across radical political divides, as ever-expanding “New Deals” were offered to each nation’s mobilized citizenry on the back of interwar promises of the better future to come.<sup>56</sup> As warfare states turned into welfare states after 1945, many of these wartime initiatives gained fundamental import. Chief among them was housing. In fact, housing occupied the center of social policy in every European country after the war, despite extremely divergent experiences of material devastation, stock shortages, social dislocation, and refugee crises. The famed Nixon-Khrushchev “kitchen debate,” in which the U.S. vice president and the Soviet premier sparred over the meaning of modern kitchen appliances at the American pavilion of the 1959 Moscow Fair, was perhaps the most dramatic instance of the more general politicization of domestic culture.<sup>57</sup> But such politicking had already been underway a decade before in the form of numerous housing exhibitions and trade fairs, as divided Germany sat at the very heart of this Cold War competition about which system was able to deliver social security and material happiness.<sup>58</sup> In the GDR the ruling SED recognized housing’s potential to buttress the party’s shaky political authority, wasting little time to make decent housing and a secure domestic life its chief campaign promise to the new republic’s war-weary citizenry. As early as 1946 such sentiments were enshrined in the new *Wohnungsgesetz*, or Housing Law, which made affordable housing a right of every socialist citizen. The GDR’s 1949 constitution proudly proclaimed the state’s guarantee of a “healthy and need-fulfilling dwelling for every citizen and family.” Here the right to housing and the visual markers of material comfort—best seen in the high-profile Stalinallee housing project as a model of socialist dwelling and urban community—played a decisive role in East Germany’s Cold War struggle for ideological legitimacy.<sup>59</sup>

The same could be said about the emphasis on “socialist legality” as a part of a post-Stalinist effort to build socialist society upon the rule of law and procedure. In fact, Khrushchev proclaimed this shift toward law as one of the defining elements in

the modernization of socialist life across the Eastern Bloc during his leadership. Frequently the post-1945 period—with its regionalized rights regimes—is interpreted as having witnessed the decline of international law as a universal moral norm.<sup>60</sup> This may be true on a global scale, but law still exerted a powerful international effect within socialist countries, and there were decisive efforts to codify a set of social rights across the Eastern Bloc. These were not simply limited to the classic socialist rights of housing, work, and education but also included such rights as gender equality. While this notion of pushing for sexual equality received a real boost in the 1950s and 1960s from postcolonial human rights activists, the long-cherished right of gender equality was elevated in social rights literature as a hallmark value of socialist culture in general and in the GDR in particular.<sup>61</sup> This often meant rewriting civil law for a new socialist world. In the East German case, however, this was neither easy nor obvious, in large part because socialist civil law was riddled with holdovers from liberal jurisprudence.<sup>62</sup> In the aftermath of the war the German Civil Code (*Bürgerliches Gesetzbuch*) of 1900, a relatively liberal civil code built on a distant relationship between state and citizen in the form of a raft of private rights and “negative freedoms,” was rehabilitated as the cornerstone of post-Nazi constitutional order. Not surprisingly this code was seen as a dangerous Trojan horse within socialist political culture, which prompted efforts to redress its potential harmful effects by creating a new civil code more in keeping with the desired socialist fusion of state and citizen. In the sphere of civil law, for instance, the distinction was no longer framed in terms of public versus private rights, as in liberal jurisprudence. Rather, it was slowly replaced with a new lexicon that treated conflicts as confrontations between civil rights and what was now known as “administrative law,” or *Verwaltungsrecht*, with the state acting as glorified landlord in granting certain rights and privileges to its citizenry.<sup>63</sup>

But even this could not paper over real conflicts about what constituted social rights in the GDR. Nowhere was this more apparent than with the informal “dispute commissions,” or *Schiedskommissionen*, which were set up in East German residential areas in 1963 to take pressure off the legal system and to initiate citizens into the workings of “socialist legality.”<sup>64</sup> These lay courts were explicitly designed to complement the successful “conflict commissions,” or *Konfliktkommissionen*, which had been created ten years before as lay tribunals to deal with minor conflicts arising in the workplace. The objective of the dispute commissions was to settle quarrels between neighbors over sundry petty infractions and “antisocial activities,” with the express aim of re-educating offenders. By 1989 there were some 57,000 people serving as elected “lay assessors” on over 5,700 dispute commissions nationwide, which heard two to three cases a month on average. While the German tradition of extrajudicial adjudication harks back to the beginning of the nineteenth century, these informal citizen courts were enlarged during the Weimar Republic mainly to relieve the overburdened legal system, and they were further expanded and integrated into the Third Reich’s German Justice Front as a means of better binding citizen and state.<sup>65</sup> According to official GDR publications, however, the social courts’ more direct antecedent was Lenin’s revolutionary initiative to integrate newly communist citizens into the machinery of socialist justice, which all but disappeared in the USSR during World War II. Khrushchev took it upon himself to revive them in the late 1950s as a means

of helping accelerate the transition to communism, whereafter the state functions of the courts would slowly be transferred to more public organizations. Thanks in part to Khrushchev's lead, the GDR's social courts had assumed a new tone and brief by the early 1960s. As in the Soviet Union, the East German emphasis was less on the repressive than on the restitutive, as these citizen courts were hailed as a fundamental step in the popularization of GDR civil culture. From the very outset these citizen commissions were hailed as vital new organs of "people's justice," precisely because they took up the small coin of socialist society. They addressed a range of citizen concerns that one might expect of small claims courts anywhere: petty theft, vandalism, truancy, minor assault, child support, failed rent payments, housing regulation violations, disturbances of the peace, insults, and quarrels over personal property. Since these were not classified as criminal, the emphasis fell on re-educating the offender and re-establishing socialist standards of proper comportment. In this sense, the courts' crusade to reform these petty offenders belonged to the GDR's broader 1960s social engineering project to remake society after the erection of the Berlin Wall in 1961.<sup>66</sup>

But what is so interesting about these lay tribunals is that they addressed the underside of socialist social rights, in this case residential problems between neighbors. Here the hallowed rights to work, education, and housing were complemented with a wider sense of social rights among citizens, such as the right to personal property. In fact, by the mid-1960s property violations accounted for nearly 60 percent of all crimes in the GDR, remaining at about that level through the 1970s and 1980s.<sup>67</sup> East German lawmakers and social workers were concerned about the dangerous specter of commodity fetishism in their midst, but the GDR constitution—like all of the constitutions across the Eastern Bloc—protected the right of personal property in socialist life. Ideological justification was traced back to the Soviet Union's famed 1936 constitution. For his part, Stalin may have busily campaigned to remove any last bastion of private enterprise from Soviet economic life, yet his 1936 constitution did formally recognize and protect what was coyly called "personal property" (*lichnaya sobstvennost'*) at the time.<sup>68</sup> As Harold Berman argued, by the mid-1930s "there was a new stress on personal ownership of one's house, of one's personal belongings, of one's savings account and government bonds," while inheritance too was "freed from crushing taxation and a greater freedom of testation was introduced."<sup>69</sup> Exacerbating the problem was the coming of socialist prosperity. For it was during the blush of the Eastern Bloc's 1960s Great Leap Forward in "consumer socialism"—in which a new socialist "mass culture" was beginning to materialize, complete with new shopping centers, mail-order catalogs, fashion, furniture, household goods, and shiny consumer durables of all varieties—that these dispute commissions took wing.<sup>70</sup> By this time the so-called standard of living had become a principal ideological battleground of Cold War rivalry, with each system using economic success as a means of showcasing political legitimacy. At the USSR's Twenty-Second Party Congress in 1961, for example, Khrushchev stressed the central importance of "Everything for the People—Everything for the Welfare of the People!"; each Eastern Bloc leader followed suit by paying more heed to the "citizen-consumer" and the notion of material progress as a new social right.<sup>71</sup> This may have been good news for GDR economists and policy-

makers, but it also meant that there were many more goods for the law, and the courts, to honor and protect.<sup>72</sup> By 1957 taxes on inheritance were all but removed across the Soviet Union and Eastern Bloc; homes, cars, boats, dachas, books, jewelry, furniture, musical instruments, and household goods were all to be formally protected.<sup>73</sup> A 1961 USSR ordinance extended the personal property provisions laid out in the 1936 constitution to all Soviet satellite states, including the GDR.<sup>74</sup> Such trends toward the “privatization” of social rights continued through the 1970s.<sup>75</sup>

Beneath the rhetoric and recriminations, these informal courts were busy negotiating new social rights. Here the “right to peace,” which had been elevated as the critical foreign policy issue in the 1950s and 1960s to help distinguish the socialist East from the supposedly warring and aggressive West, took on concrete domestic expression. This was particularly so in cases concerning noise and “disturbances of the peace,” or *Hausfriedensbruch*, which accounted for some 20 to 30 percent of the courts’ business by the 1970s and 1980s. Interestingly, peace and quiet was a virtually nonexistent topic in the 1950s and 1960s. Few sounds were categorized as harmful, and thus they were not actionable in court. On the contrary, it was widely accepted that the construction of socialism after World War II would be a noisy affair, and loud noise—especially industrial noise in cities—was viewed as a necessary and even welcome sign of progress. In the 1970s things changed, however, as noise became a growing source of residential conflict across the country, and even across the Eastern Bloc.<sup>76</sup> There was growing concern among all socialist governments about the deleterious effects of excess noise in the workplace, insomuch as loud noise was seen as hindering workers’ productive capacities.<sup>77</sup> Now peace and quiet during after-hours leisure became a new issue and perceived social right across the Eastern Bloc.<sup>78</sup> In part this was due to the fact that people were at home more often as a consequence of shortened work weeks and extended holidays, exposing them to more noise pollution from their neighbors. But this was also accompanied by a shift in sensibility. No longer was noise to be tolerated as simply an inevitable by-product of socialist life, at least not at home. Social court records were filled with cases from the early 1970s concerning disturbances of the peace, usually focusing on neighbors’ loud music, domestic squabbles, and raucous late-night antics. Indeed, the noisy neighbor now emerged as a new “enemy of the people,” as peace and quiet became a popular yardstick with which to measure residential harmony and socialist development. The same thing went for the large number of cases concerning insults or defamation, as plaintiffs demanded public apologies to redress bruised honor and reputation.<sup>79</sup> These cases were taken very seriously precisely because the citizenry supposedly stood at the center of socialist society. Offenses against the honor and dignity of the individual were thus construed as a transgression against the very spirit of socialism itself.<sup>80</sup> The East Germans were hardly alone in these views. Under Khrushchev honor, dignity, and defamation became for the first time legal topics in the USSR as a vital step in his de-Stalinization policies, assigning the “right to the protection of one’s honor and dignity” to the category of inalienable “personal non-property rights” there.<sup>81</sup> The 1961 Statute of Comrades’ Courts gave these “para-judicial bodies” the brief to “hear complaints involving, *inter alia*, ‘insults,’ defamation and ‘foul language,’” the main purpose of which was “actively to foster” among Soviet people “respect for the dignity and honor of the

citizens.” With time similar new statutes entered civil codes across the USSR and Eastern Bloc. No less revealing is that in 1960s divorce cases, East German women cited breaches of their “right to equality,” honor, dignity, and even the “right to pleasure” as grounds for divorce, showing the ways in which such rights had become popular grounds for action already in the 1960s.<sup>82</sup> What all of this demonstrates is that social rights were undergoing rapid expansion under socialism in the 1960s, moving from the traditional right to work, education, and housing to include more individually oriented rights to peace and quiet, dignity and pleasure.

Another good example of the GDR’s politicization of social rights was the infamous citizen complaint letters. These complaints mostly took issue with shortfalls in socialist social rights, especially concerning the state’s promissory note of material provisioning befitting a “workers’ and peasants’ state.” While similar practices took place in the Soviet Union and in the satellite states, the scale and intensity of the citizen complaint system were unique to the GDR. The citizen’s right to petition was anchored in Article 3 of the GDR’s 1949 constitution. East German Premier Walter Ulbricht himself championed its inclusion, arguing that such a right functioned as a crucial means of better binding state and citizen. Justification was traced back to Lenin, who saw such petitions as part of the “enlistment and education of the workers” into the “daily administrative work of the state” and a necessary step toward citizen self-government.<sup>83</sup> In SED party literature, the right to petition was repeatedly hailed for its ability to bring about “great confidence in our state,” “the consolidation of socialist democracy” as well as “political-moral unity and growing socialist consciousness.”<sup>84</sup> Already by 1952, three years after the country’s founding, President Pieck personally received no fewer than 80,000 written citizen petitions. By 1962 the State Council received over 100,000 letters annually, rising to over 134,000 by 1988. Thousands of complaints were sent to ministries as well as local and regional representatives on a monthly basis over four decades, adding up to hundreds of thousands of complaints filed every year, across every region. By 1989 East Germans were writing over a million complaint letters a year, making this at once a mass-produced yet highly individualized mode of communication rights practice in the GDR.<sup>85</sup>

Most of the GDR’s citizen petitions focused on material issues, usually concerning housing repairs, inadequate heating, and residential disorder. Citizens often wrote to local state authorities in a disgruntled manner, but most (especially those in rural areas) tended to use an older language of deference to make their case for personal attention and conflict management. By the early 1970s things had changed, as the language mutated from pleas of mercy to demands for social justice. What is interesting is how quickly the language of the supplicants shifted with the signing of the Helsinki Accords in 1975, especially considering that the agreement was published in *Neues Deutschland* only once. Citizens more frequently used the language of human rights (calling it their human right to live decently in a socialist state, for example) as a means to strengthen their cases by shaming the authorities into respecting their own claims of material betterment for all. Claims that the state’s subpar housing policy violated the “norms of human cohabitation” (*Normen menschlichen Zusammenlebens*) were not uncommon.<sup>86</sup> Given that the state promised to provide for all, these seemingly banal problems of provisioning quickly shaded into quite trenchant political

criticisms of the regime's ability to make good on its promises. This of course was the unforeseen consequence of the regime's ideological campaign to subordinate civil rights to economic rights, which held the government accountable for all matters of social welfare. That the complaint system was based on and actively mobilized the language of direct democracy only made things more dangerous. With it the SED unwittingly created a kind of vicious circle in which the initial idea of encouraging the complaints as a means of political control soon proved unwieldy and even counter-productive.<sup>87</sup> Their very success as a legitimate exchange point between state and citizen led to their eventual undoing, as the state found it harder and harder to honor its part of the socialist social contract. In any case, this formalized complaint system was one place where social rights, materialism and rising expectations met in East German political life. The net effect was to conflate human rights with a particular socialist conception of social rights, which included housing, health, employment, and peace and quiet. But as seen in the complaint letters, it was the "materialization" of citizen rights (as opposed to the abstract civil rights of the West) that largely distinguished the socialist understanding of rights from its Western counterpart, at least until the late 1970s.<sup>88</sup>

Two points can be made by way of conclusion. At first glance one might say that East German socialist society—despite propaganda to the contrary—was really battling over distinctly "bourgeois" notions of domestic order, propriety, and the good life. From this perspective, it seems that the SED willy-nilly was following the paths of Western socialism. But I think that it is misleading to consign these developments to some sort of subterranean "liberalization" of GDR society. On the contrary, one could plausibly counter that this burgeoning socialist rights culture demonstrated a kind of citizen assertion of civil society. This may seem peculiar to some, not least because an influential strand of GDR historiography has worked to turn Marx on his head, arguing that it was society, and not the state, that eventually withered away under Soviet-style socialism. And yet these examples amply show that a certain expression of civil society—based on the claims of social rights, domestic peace, and material well-being—developed at the local level over the years. Admittedly, the classic liberal notion of an independent civil society flourishing in the social spaces between the family home and the state found no real expression in the GDR. There was no critical public sphere, and Western-style civil rights such as the freedoms of speech, assembly, and emigration were essentially off-limits, even after the signing of the Helsinki Accords in 1975. The important point is that East German civil society and its social rights culture did not develop—as they did in the West—against the state but rather very much within it. This is the paradoxical nature of what Mary Fulbrook has suggestively called the GDR's distinct idiom of "participatory dictatorship."<sup>89</sup> In this regard, perhaps the more important government document outlining the relationship between GDR state and society was not the Helsinki Accords but rather another that appeared in 1975, namely, the revised Socialist Civil Code. Like the Helsinki Accords, the GDR's new code covered questions of security and rights, but it treated them from a decidedly socialist perspective. The code was an explicit effort to "materialize" social rights, safeguarding a host of property protections and "subjective rights" for GDR citizens. This understanding was firmly in line with

socialist governments' understanding of rights at the time, which included the right to work, decent housing, health, higher education, and even "rest and relaxation" as fundamental human rights, as opposed to the "abstract" liberties celebrated by their Cold War rivals.<sup>90</sup>

Second, such citizen rights initiatives underline just how seriously many residents took these declared norms and rights, so much so that they eventually spurred further expectations and demands of justice and entitlement. Rights agitation is usually associated with a small group of Eastern European dissidents in the Soviet Union and Eastern Bloc who built their reform program on trying to force socialist governments to comply with their own signed documents: constitutions, laws, and international agreements, including the Helsinki Accords. This was the simple yet far-reaching call to action behind Havel's "legalism" and "the persistent and never-ending appeals to the law."<sup>91</sup> Yet such rights agitation took place at the popular level too, as noted with these social courts and citizen complaints letters. The "right to have rights"—long seen as synonymous with Western society—found expression in the Eastern Bloc as well. What citizens arguably took most to heart in their complaint letters and social court hearings were the original claims of Marxism itself, social justice and material compensation, central to it from the very beginning. That the GDR Civil Code of 1975 was a bestseller across the country, having sold some two million copies in a population of 16.7 million, attests to socialism's own burgeoning "rights culture" there. However opportunistically citizens may have cited the code to advance their rights claims, the point is that they embraced the law, the citizen court system, and ultimately the state itself as receptive organs of certain forms of popular justice and social rights. The appeal to state-sponsored citizen rights is what united the revolutionary crusades of 1789, 1848, and 1917 to bring about a new state, society, and citizen from the enlargement of the political community. The Helsinki Accords were very different in this regard, in that they simply aimed to make existing paternal states own up to their promises, not to overthrow them; after all, territorial sovereignty and nonintervention were the preconditions for the famed Basket III agreements on (nonenforceable) human rights issues. Human rights claims in Eastern Europe were thus both more modest and more threatening, to the extent that they offered a new means of redress and withdrawal from socialism's social contract. What no one at the time understood was that combining social and human rights assertions ultimately proved fatal for these regimes, as demands for a better world slowly moved on to a different and much more intractable plane. In this sense, T. H. Marshall's evolutionary scheme of rights development is not so germane for Eastern Europe, in that rights remained tightly interwoven there. But what made human rights so powerful was that they were theoretically not the gift of the state but rather both anterior and exterior to it, thereby providing a new vantage point from which to challenge these "welfare dictatorships" across the region.

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