Moral Reasoning in the Wake of Mass Murder: 

The Singer-Affair and Reproductive Rights in Germany, 1980s-1990s

“We cripples will not let ourselves be used as propaganda objects! ... The abortion opponents chose this spot in order to defame and to criminalize women who undergo an abortion, by putting the mass extermination of the disabled on the same level as abortion today... This shameless equation is the reason we are appearing here and condemning the trivialization of the inhuman National Socialist murders.”

– Members of the Federal Association of Disabled and Crippled Initiatives, in a counter-demonstration at an antiabortion rally at the former killing center of Hadamar, 1986

“In point of fact, a systematic and ‘legalized’ murdering of the disabled has existed only under the Nazis and they, simultaneously, punished abortion severely. In countries in which abortion has been liberalized, the disabled and the elderly and marginalized groups are generally treated with respect. There is no indication that abortion has or ever had anything to do with the killing of human beings.”

– Reproductive rights activist Susanne von Paczensky, 1989

In this chapter I turn to the case study of post-Nazi Germany at the pivotal moment near the end of the Cold War. While in the 1960s-1970s, a negative attitude towards disability had facilitated the advance of abortion rights, for a complex conjunction of reasons the demand for a more positive attitude towards disability in the 1980s-1990s ended up having negative
implications for abortion access. Almost as soon as abortion had been partially decriminalized across much of the Western world in the course of the 1970s, a backlash began to develop, slowly at first but then with gathering momentum. And while initially the activists driving that backlash had made no mention whatsoever of disability, a major national controversy over the lessons of the Nazi past caused a consequential reconfiguration in the terms of discussion over reproductive rights to be consolidated. Here again, but differently than before, we find an intricate and dynamic interplay of reverberations between past and present moments – and see as well how, in conflicts that are at once ideological and emotional, interpretations matter as much as, or more than, facts (see Figure 7).

<Fig. 7 Anti-Singer poster here>

The Singer-Affair

“Thou shalt not kill. That is not divine law, that’s a Jewish invention.”¹ So said Eugen Stähle, a medical doctor and head of the Division of Health within the Württemberg Ministry of the Interior, when confronted in 1940 by Protestant religious leaders’ protests against the first phase of the mass murders of the disabled that he was co-coordinating at that very moment. In this first phase, the meant-to-be-secret – but by that point no-longer-so-secret – program called by the Nazi leadership “Aktion Gnadentod” (Action Merciful Death) and generally, since the defeat of the Nazis in 1945, called “Aktion T4” (in reference to Tiergartenstrasse 4 in Berlin, the address at which this program was planned), 70,273 individuals with psychiatric illnesses or cognitive deficiencies were, between January 1940 and August 1941, murdered with carbon monoxide in six specially designed gas chambers within what had been, previously, with the exception of one of the buildings, facilities for healing and care (see Figure 8).
Ultimately, due to unrest in the populace and further religious protest – especially the prominent Catholic bishop Clemens August von Galen’s sermon of August 1941 decrying the killings – Hitler had ordered the program officially stopped. It continued on nonetheless in a second, decentralized phase that lasted even beyond the end of the war in May of 1945.\textsuperscript{2} Ultimately, 210,000 individuals with intellectual or psychological disabilities in the German Reich and a further 80,000 in occupied Poland and the Soviet Union were killed through deliberate medication overdose, poisoning, or systematic starvation.\textsuperscript{3} Meanwhile, the approximately 100 personnel that had gotten their training and practice in murdering the disabled in the T4 facilities, along with their now field-tested technology of carbon monoxide gas chambers, were moved on to Poland to turn their attention to the mass murder of European Jewry – in the Operation Reinhard death factories of Belzec, Sobibor, and Treblinka (where approximately one quarter of the Holocaust took place) (see Figure 9a & 9b).\textsuperscript{4}

The Stähle quote – “Thou shalt not kill. That is not divine law, that’s a Jewish invention” (in other words: Moses just fabricated the Ten Commandments, and no self-respecting Nazi need concern himself with these) – was brought to the attention of West German readers of the weekly \textit{Die Zeit} in the summer of 1989 by Ernst Klee, a prominent nonacademic historian and advocate for the rights of the disabled in the context of Klee’s vehement and eloquent repudiation of the theories of the Australian philosopher and animal rights activist Peter Singer. Singer had been invited to West Germany by an organization called \textit{Lebenshilfe} (Life-Assistance), the premier association of parents and caregivers of disabled children, in the expectation that he would address a scheduled conference in Marburg on “Biotechnology – Ethics – Mental Disability”; he
had in addition been invited by the special education expert Christoph Anstötz, a professor at the university in Dortmund, to speak there on the subject “Do severely disabled newborn infants have a right to life?” (Singer’s own short answer to this question was No, as the second sentence of his then recently-published book, *Should the Baby Live?* (1985), co-written with the philosopher Helga Kuhse (also Australian, though of German heritage), stated clearly: “We think that some infants with severe disabilities should be killed.”)

It was not – the organizers later said – the outpouring of indignant letters from across the land but rather the announced threat that there would be demonstrations and public disruptions of the proceedings that caused both invitations to Singer to be withdrawn.

Only in one German town, Saarbrücken, was Singer able to participate in a public discussion with his local hosts, the philosophers Georg Meggl and Christoph Fehige (and that event also began with a half-hour of ear-piercing whistles and shouts demanding “Fascist out!”). There in Saarbrücken, the audience was able to learn, among other things, that Singer was the son of Jewish refugees from Vienna, that three of his grandparents had been murdered in Nazi concentration camps, and that he resolutely defended his conviction that since passive killing of severely disabled newborns by withholding treatment was already quietly being practiced in hospitals across Germany and elsewhere in the western world, active mercy-killing by doctors to shorten their agony should be permitted as well, within strict limits.

Moreover, Singer noted that he was of the opinion that certainly conditions for already-living individuals with disabilities should be better. (“Often the conditions in homes for disabled people are terrible. As a prosperous society we should do more to improve the life-quality of disabled people and we should also try as much as possible to integrate them into society.”) Singer’s critics, however, were far from mollified.
Because massive media coverage had accompanied the controversy from the start – with *Die Zeit*, for instance, titling one early contribution “Can Euthanasia be defended on Ethical Grounds?” (indeed the paper’s own tilt toward answering with Yes – although quite explicable within its own terms – was part of what had caused Klee to write his countervailing piece) – over the following months and into the next year, the ramifications kept expanding, as local and regional papers wrote about “Parallels to Nazi Theories,” “Fury and Outrage at the University: Protest against ‘Academic Chairs for Euthanasia,’” and “We are afraid for our children.”

The Green Party issued a statement referring to Singer’s theories as an “incitement to murder.” Foreign observers, from the US and the UK, expressed their appallment that civil conversation about ideas was, apparently, impossible. The whole thing, depending on how you looked at it, turned out to be a fiasco for the would-be hosts or, as Singer’s defenders argued, a sign that a tiny minority of overreactive extremists – who had not even read Singer closely – could shut down rational debate for an entire country. Singer himself, piqued, wrote a piece in the *New York Review of Books*, “On Being Silenced in Germany.” And Anstötz, who had originally hoped to host Singer in Dortmund (but instead had faced livid protesters – from religious representatives through to the main AIDS organization – with banners declaring “Boycott Anstötz’s Murder-Seminar,” “No murder of babies, the elderly and disabled,” and “For Anstötz and Singer, disabled newborns are human vegetables”), subsequently co-published a collection of documents about the confrontations – *Peter Singer in Deutschland* – whose subtitle announced that it concerned “The Endangerment of Freedom of Discussion in Scholarship.”

Over and over, the very fact that there had been mass murder of people with disabilities in the nation’s past was put forward by Singer’s defenders as a main explanation for (what was asserted to be) the immaturity of moral reasoning abilities in West German society in comparison
with the rest of the West, a lamentable and inappropriate oversensitivity which led to “thought- and discussion-taboo[s],” an incapacity to confront the genuine and inescapable challenges brought by technological advances and crises of extremity of suffering at either end of life.\textsuperscript{14} For Anstötz, moreover, it was the critics’ refusal to let Singer speak that was best compared to the Nazis’ “burning of books.”\textsuperscript{15} He and his coauthors contended that the very characteristics Nazis had ascribed to Jews (“sly outfoxing reasoning,” “analyzing, distanced, holds nothing sacred… emphasizes logic”) – characteristics which the Nazis had been determined to “exterminate” (\textit{ausrotten}) – were still, sadly, lacking decades later (“even a superficial glance at the political culture of Germany shows how thoroughly, and with legacies continuing into the present, this extermination has succeeded”). On this basis, in turn, they concluded: “Conversely: It becomes clear how urgently we need precisely that spirit of reflection, of clarity, of analysis, of differentiation and of tolerance that is embodied by Peter Singer.”\textsuperscript{16} And Georg Meggle, who had hosted Singer in Saarbrücken, wrote that Singer’s critics were promulgating “a new form of antisemitism,” charging the critics with assuming that “if a Jew thinks like Singer thinks, then he must be sick.”\textsuperscript{17} Singer, too, weighed in, writing in \textit{Bioethics} in 1990 that “Perhaps what really was instrumental in preparing the Nazi path to genocide, and has not yet been eradicated in the modern Germany, is not the euthanasia movement at all, but the kind of fanatical certainty in one’s own rectitude that refuses to listen to, or engage in rational debate with, anyone who harbours contrary views.”\textsuperscript{18} Nonetheless, the critics would have the last word. As a radical disability rights newspaper, \textit{Die Randschau}, declared also in 1990: “The ‘tolerance for debate’ that the philosophers are demanding for Singer’s theses is the same as one which would permit the discussion of the thesis of the ‘superiority of the Aryan race.’ But in both cases, the fundamental will to treat human beings as unequal must be combatted.”\textsuperscript{19} This was to remain
the general tenor of what would become a broadly propounded official anti-Singer stance. It would be a full fifteen years before Singer delivered another lecture in Germany.

Post-Nazi Politics and Historiographical Frames

I began with Klee’s and others’ stinging rebukes to Singer – or rather, with what came to be called “the Singer-affair” – for multiple reasons. One reason is that the Nazi doctor Stähle’s quote – which the historian Klee had uncovered as he was researching the Nazi murders of the disabled for his magnum opus on the topic (in English the title would be “‘Euthanasia’ in the NS-State: The ‘Extermination of Life Unworthy of Life’” (1983)) – captures with unintentional transparency the intimate interconnections between antisemitism, on the one hand, and contempt for individuals with disabilities, on the other. One of the great and consequential dramas of the 1980s and 1990s, in scholarship internationally and in activism within Germany alike, would be the determined effort to elucidate the multiple links – in staffing, in gassing technology, but also in attitude toward “lives unworthy of life” – between the murder of individuals with disabilities and the Holocaust of European Jewry. Indeed the quote, and Klee’s use of it, brings into view just how very important the invocation of these two interrelated (or, as historian and survivor of Auschwitz Henry Friedlander put it, “intradependent”) mass murders in the nation’s past would be for advancing the cause of disability rights in the postwar then-present of the 1980s. It is hard to remember now, but crucial to our understanding of the dynamics at the time, that contempt for and cruelty toward the physically and cognitively disabled lasted well into the 1980s (and even beyond). The postwar years had seen a (in hindsight truly stunning, then simply devastating) breadth of popular support for the perpetrators, and ongoing shaming of the victims and their families. Few of the perpetrators ever faced justice but instead had illustrious postwar
careers. The very statements I asserted as facts in the opening paragraphs of this chapter – that the mass murder of the disabled was the precursor to and continued to be entangled with the Holocaust – were not generally obvious in the 1980s. Indeed initially, connections had been made more by intuitive emotional analogy than by specifying literal links (see Figure 10). This was a connection that still needed to be solidified and concretized in the public mind; the Singer-affair provided a major occasion for doing so.

Singer himself, in his widely used textbook of 1979, *Practical Ethics* (translated into German in 1984) had argued strenuously – and in this he was in accord with the assumptions animating much late-1970s scholarship – that there was no connection: “If euthanasia somehow leads to the Nazi atrocities that would be a reason for condemning euthanasia. But is euthanasia – rather than, for example, racism – to be blamed for the mass murders the Nazis carried out?” Singer’s own answer to the question, as he framed it, was No. For him, hostile or lethal treatment of the disabled simply did not count as racism. It was precisely this presumption of a categorical gulf between the two major Nazi murder programs that, it was felt, needed to be challenged and it was over the course of the 1980s, through sustained research and advocacy work, that the links were starting to be established. Increasingly, moreover, a second tie was forged: conceptual and empirical connections were elaborated between the 400,000 coercive “eugenic” sterilizations of individuals with disabilities enacted under the rubric of the July 1933 “Law for the Prevention of Hereditarily Diseased Offspring” and the 200,000-plus “euthanasia” murders.

As it happened, the postwar government had continuously refused to acknowledge the harm done to victims of coercive sterilizations – rejecting their claims to be “persecutees of the
Nazi regime” deserving of any recognition, much less of financial recompense, and relying on the opinion of experts, some of them ex-perpetrators (including those involved in the euthanasia murders), in declaring the sterilization legislation to have nothing to do with “National Socialist racial laws.”

But also Protestant church leaders had not offered a countervailing moral position. Instead, eager to advance their own version of a sexually conservative “personal eugenics” in the postwar years and instrumentally invoking their unabashed pride in having resisted, however ineffectually, the murders in order to advance their own advocacy for “voluntary” sterilizations, worked hard – and successfully – to keep “eugenics” and “euthanasia” analytically distinct. It was against these trends of the first three postwar decades that a historiography arose, over the course of the 1980s, that reframed the Third Reich in such a way that eugenics and euthanasia alike would come to be seen as central rather than marginal aspects of what was finally, by 1991, shorthanded (in historians Michael Burleigh and Wolfgang Wippermann’s title) as “The Racial State.”

Burleigh and Wippermann, building on a decade of pioneering scholarship, expressly identified the Nazi goal as “the ‘purification of the body of the nation’ from ‘alien,’ ‘hereditarily ill,’ or ‘asocial’ ‘elements’” and thus focused their account on “all those whose lives or reproductive capacity were ended as a result of Nazi racial policy,” including “Jews, Sinti and Roma, and members of other ethnic minorities categorized as ‘alien,’ as well as the ‘hereditarily ill’, ‘community aliens’, and homosexuals.” Indeed, they said, “there is much evidence to suggest that race was meant to supplant class as the primary organizing principle in society.”

The debates around Singer had finally made this kind of summary statement seem incontrovertible, as major news outlets had taken the critics’ cues and had begun in 1989, in text and in accompanying imagery, to center the murder of the disabled at the heart of the Third Reich, and to register that “eugenic thinking” needed, on a regular basis, at least formally to be
repudiated as immoral.³³ (Only since the turn of the millennium has the newest research led to the prospect of once more decoupling eugenics from euthanasia and to the prospect of de-biologizing the Third Reich more generally.)³⁴

My second purpose, however, in revisiting the fall-out from the Singer-affair and situating it in its various overlapping contexts is that doing so helps us not only to understand the particular shape taken by radical disability rights activism in West Germany in the 1980s-1990s and the particular ardent investments the movement developed, but also their complicately ricocheting consequences. For it was, of all people, Singer, whose convoluted mix of mundanely sensible and traumatizingly obscene lines of moral reasoning, coming at the historical juncture that he did, that created the opportunity for radical disability activism in West Germany to erupt into mainstream public view, garnering the attention – and respect – of major media outlets and government officials alike and becoming a political force to be reckoned with.³⁵ But no less significant is the impact of the debates about Singer’s theses on the terms in which women’s rights to access abortion could be defended – rights which were, coincidentally, at that very moment in 1989 under renewed attack from conservative forces and about to be yet more fully reconfigured after the collapse of communism just a few months later. It would become impossible, in the wake of the Singer-affair, for any mainstream German politician frankly to defend abortion on grounds of (what had been called) the “eugenic” or “embryopathic” indication; by the early 1990s politicians had backed away from any language that might possibly be construed as suggesting a diminished respect for disabled life – and so too had many feminists. There was a rush to outdo one another in declaring that the state should not and would not ever prefer non-disabled over disabled life. Disability activists were key players in the reorientation. This particular fall-out was not inevitable, but it was overdetermined.
Different outcomes might have been possible. In other national contexts, including in the US, the UK, Austria, France, Switzerland, and Israel, it has been imaginable that one could passionately to defend disabled newborns and disabled children and disabled adults’ rights to life – indeed joyful, rich, beloved, and fulfilled life – and simultaneously to find completely morally acceptable abortion on grounds of fetal disability. In Israel this is deemed “the two-fold view of disability.”36 But something – many things – about the particular conjunction of circumstances in Germany at the transition from the end of the Cold War to the new unified nation made this perspective seem, quite apparently, unfathomable. Feminist efforts to mobilize against the strong rollback underway against the partial decriminalization of abortion that had been achieved in 1976 collided head-on into the debacle around Singer.

What was it that had so alarmed the protesters against Singer? Initially, the mainstream media had been nonplussed at the uproar. His *Practical Ethics* seemed pertinent to deliberations that had been already ongoing in West Germany for the prior ten to fifteen years involving dilemmas surrounding technological advances in end-of-life care as well as patient requests for assisted suicide.37 His suggestion that permitting doctors to provide active killing rather than extending a severely disabled newborn’s torment through passive letting-die (for example, in cases of inoperable spina bifida), though instinctively repellent to and immediately repudiated by many, at least seemed discussable.38 And finally – though it took a while for the major newsmagazines and newspapers to make much of this – Singer was a staunch advocate for animal rights and, although the vast majority of West Germans were meat-eaters, there were also numerous dog-lovers, and there were certainly broad sectors of the populace that would be receptive to, or at least not agitated about, arguments for humane treatment of animals.
But the trouble lay in the way Singer *joined* his various areas of interest. Singer could easily have argued that animals – nonhuman sentient beings – deserved far better treatment than humans normally meted out to them, and left it at that. But instead Singer repeatedly evinced a (indeed, nearly obsessively reiterated) preoccupation with denigrating the cognitively disabled, stating that severely cognitively disabled individuals lacked “personhood” and hence had *less* value and less right to life than animals (many of whom he thought *did* have the “personhood” the cognitively disabled were missing). Thus, for instance, in an essay from 1983 entitled “Sanctity of Life or Quality of Life?” Singer had stated: “If we compare a severely disabled human child with a nonhuman animal, for example a dog or a pig, we will frequently find that the animal demonstrates higher capacities with respect to comprehension, self-consciousness, communication and many other things.”*39* And in *Practical Ethics* Singer had argued that even if someone belonged to the human species, he or she was “not a person,” if “rationality, autonomy and self-awareness” were absent. Or connecting the dots more explicitly: “Some members of other species are persons: some members of our own species are not. No objective assessment can give greater value to the lives of members of our species who are not persons than to the lives of members of other species who are. On the contrary, as we have seen there are strong arguments for placing the lives of persons above the lives of nonpersons. So it seems that killing, say, a chimpanzee is worse than the killing of a gravely defective human who is not a person.”*40* These were the kinds of comments that made his critics apoplectic.

Klee, in his brilliant rejoinder to Singer, homed right in on what he called the “bizarre nexus of animal rights and euthanasia” in Singer’s work, and regaled his readers with examples of *Nazis* who had linked their enthusiastic embrace of animal rights both with antisemitism (Hitler was the “savior” of animals from “Jewish-materialistic” “animal torture” like vivisection)
and with lethal antidisability sentiment (the SS-journal *Das schwarze Korps*, for example, had declared with regard to “mercy killing”: “A child born as an idiot has no value as a person…. He is less aware of his existence than an animal”).  

Franz Christoph, one of the cofounders of the radical “cripplenovement” (*Krüppelbewegung*) launched in the 1970s, in his own extended rebuttal to Singer in the pages of the newsmagazine *Der Spiegel*, also made the comparison to Nazism. (Christoph, a polio survivor, had already made a name for himself in 1981, when he had the audacity to strike the federal president, Karl Carstens (a former Nazi), with a crutch at the occasion of paternalistic government festivities in Düsseldorf organized in keeping with the UN declaration that 1981 should be the “Year of the Disabled,” and he had a multitude of creative protest actions to his credit.)  

Invoking Singer’s opinion that “The killing of a disabled infant is not morally equivalent to the killing of a person. Very often it is no injustice at all,” Christoph observed curtly: “In connection with any other group of people the thesis of Singer would be in danger of being rejected as fascistic thinking – without any scholarly dialogue. An event that wanted to concern itself with the right to life of newborn women or foreigners would – justly – bring in its train a storm of public protest and would, if it were to be debated at a university, have to reckon with the intervention of the relevant government minister. Also the Minister of the Family in Bonn would be careful not to sponsor such an event – if it was not a matter of the cognitively disabled.”

For Christoph, the most urgent task was to respond to defenders of Singer who liked to gesture (vaguely, and impatiently) to the Nazi past as the reason for the (in their view regrettable) touchiness and reluctance to discuss Singer’s theses, and he targeted (as cynical) Singer’s own pronouncement to the effect that “We cannot condemn euthanasia just because the Nazis did it, any more than we can condemn the building of new roads for this reason.”
Christoph was intent on putting forward a *different* interpretation of how the Nazi past mattered – not, as Singer’s proponents claimed, because it caused German conversations to be out of step with international trends around assisted suicide and related matters, but rather to articulate why *talk* could be so offensive. It was, Christoph said, “precisely these kinds of scholarly discussions and discourses that were precursors of what came to be, beginning fifty years ago, the extermination of ‘life unworthy of life.’” The trouble was the way that a question was being established as even legitimately posable, the very act of asking “‘Euthanasia for severely disabled newborns?’ that then could be answered with a Yes as well as with a No.” As one woman in the cripple movement had phrased the point succinctly, as quoted by Christoph: “We cannot just tolerate it, when they talk about whether we may live or not…. It is an incredible intolerance, when the human dignity and personhood of disabled people is massively assaulted, when the violability of human life is therewith even more socially legitimated.” Christoph’s conclusion was thus that it was “specifically because of the historical experience, although social service bureaucrats apparently cannot relate to this” that “for those who are affected, any and all discourse about the reintroduction of the concept of ‘life unworthy of life’ seems like a menace to their right to live.” *Der Spiegel* took the cue, and accompanied Christoph’s piece not only with a photograph of a sit-in to disrupt a rehab experts’ conference on the topic of assisted suicide in Karlsruhe the year before (where Christoph and others had worn blue garbage bags – replete, in Christoph’s case, with a sign around his neck declaring “I am unworthy of life”), but also with a photograph of the distinctive gray buses that had brought the disabled to their deaths in the Nazis’ T4 program, and with a copy of Hitler’s order, backdated to the start of the war on Poland in September 1939, that permitted the beginning of the calculated murder of 5000 disabled children.  

(Singer later took particular umbrage at the magazine’s decision to use these
supplemental images.) The tide of mainstream consensus was suddenly but manifestly turning – after an excruciatingly long delay of four postwar decades – in favor of radical disability activists’ views on the proper lessons to be drawn from the Nazi past.

Abortion vs. Infanticide

In addition, however – and although the broader potential implications of what had initially seemed like a side note in Singer would not become apparent until several years later – Singer had used as a springboard for his own causes something that had actually been an achievement of feminist and sex rights activism just a few years before his book was published. It was specifically the fact that across the Western world, abortion had – due to vigorous women’s rights advocacy – been at least partially decriminalized and had come to be seen as morally acceptable by broad popular majorities that Singer used as his entry-point for theorizing the acceptability also of active infanticide (again, with frequent interpositions making comparisons with animals). Over and over, he had made a case for seeing the similarity, rather than the difference, between “killing the late fetus” and “killing the newborn infant.” Thus for instance – in this moment speaking about all newborns, not just disabled ones – Singer expressly built his argument on the basis of the only just recently established greater moral acceptability of abortion: “If the fetus does not have the same claim to life as a person, it appears that the newborn baby does not either,” he began one sentence, going on from there to assert once more that “and the life of a newborn baby is of less value than the life of a pig, a dog, or a chimpanzee.” But the difference between newborns had to do with parents’ desires for them, and Singer assumed that parents desired the disabled less. Moreover, then, in Singer’s view, and since not all disabilities were evident prenatally – some indeed might be caused in the birth
process – in cases of disability (and he was ambiguous about what counted as severe) sometimes active infanticide should be permitted, perhaps up to “a month” after birth. And at yet another moment, and while Singer would, in the ensuing controversies in Germany keep insisting that he had never argued for the killing of already-living disabled individuals older than infants, readers could be forgiven for thinking that he actually had: “For simplicity,” he had written in *Practical Ethics*, “I shall concentrate on infants, although everything I say about them would apply to older children or adults whose mental age remains that of an infant.”

This insistence on not drawing the line either at birth or at viability but instead actively blurring the boundary between abortion and infanticide was to have tremendous consequences – not just for the reception of Singer in that summer of 1989, but for the reconfiguration of women’s access to abortion that was, after the collapse of communism just a few months later, shortly to ensue. In the complex back-and-forth between constituencies that followed, feminists would lose the ability to retain the – morally crucial – distinction between an abortion on grounds of anticipated disability and an infanticide. As repelled as most activists on behalf of disability rights as well as women’s rights were by Singer, many appear to have accepted his terms of debate.

The antiabortion movement in West Germany had been trying, since at least the early 1980s, to involve disability rights groups in their political agenda, floating once more not only the time-honored (truly, since 1946!) maxim that abortions were somehow comparable to Auschwitz, but also trying to make the link between abortions and the murder of the disabled – focusing in specifically on the “eugenic indication” for abortion as a reason for disability rights activists to join them and speaking of the “thousandfold killing of unborn disabled babies” and of how “the so-called amniocentesis provides the ammunition for the fatal shot.” Among other
things, a group calling itself “Movement for Life” had managed to organize individuals with disabilities in an affiliate called the “Helen Keller Circle” – and at least one young disabled man had written an open letter to the President of the Federal Republic criticizing the way “amniocentesis differentiates between ‘worthy’ and ‘unworthy’ life” and comparing the “eugenic indication” for abortion to Hitler’s 1939 directive to begin the euthanasia killings. Initially, radical disability groups spurned these overtures. For instance, in 1981, when prompted by a Heidelberg-based Catholic antiabortion student association calling itself “Working-Group for Life” and condemning abortion under the slogan “Thou shalt not kill!,” the “Action Group against the UN Year of the Disabled” (“against” because disgusted by what it took to be self-congratulatory but condescending and repressive charity efforts sponsored in that “UN Year”) responded: “On the basis of our experiences as cripples and as nondisabled but concerned individuals in our society, we do not presume to condemn women who decide against a disabled child. Because of the hostility to disability in this society in particular, parents of disabled children are left alone with their problems and difficulties. Often the only recourse is to give the disabled child into an institution. If parents try to protect their child from an institution, this means taking up an immense battle with the authorities, social service offices, doctors and bureaucracy, battling against prejudice, financial challenges and isolation.” In 1983, and again in 1985, when the antiabortion group “Action for Life” reached out to the Federal Association of Disabled and Crippled Initiatives “with an alliance-proposition,” the “Cripple Group Bremen” reacted negatively. Although the Bremen activists concurred that abortion on grounds of fetal disability was a problem for them (“we are… opposed to… the eugenic indication”), they rejected the campaign to criminalize all abortions. “To get rid of Paragraph 218 [the law on abortion]… would change nothing in the life-reality of cripples in our society. We would
continue to be disenfranchised and separated out, ‘social euthanasia’ would continue to occur. Thus we see our immediate task in improving the life-conditions of those already living and we would welcome it greatly if organizations like yours would also engage themselves in this direction.” Moreover: “We have no desire to let ourselves be instrumentalized for your battle against §218.” And in addition: “We find the comparison drawn… between §218 and Auschwitz conspicuously tasteless. Aside from the fact that ‘euthanasia’ did not take place in Auschwitz, we find this comparison to make a mockery of the victims and survivors of the concentration camps.”

<Fig. 11 drawing of women in wheelchairs here>

In 1985, when feminist members of the “cripple-movement” compiled a book of essays on the particular difficulties confronting women with disabilities, the book, Geschlecht: Behindert, Besonderes Merkmal: Frau (Gender: Disabled, Special Characteristic: Woman) had included an illustration indicating how women in wheelchairs were working to abolish Paragraph 218 (see Figure 11). As late as 1986, when the antiabortion group “Action for Life” had not only decided to hold its annual demonstration at Hadamar – one of the only two of the former six Nazi killing centers that were on West German soil – but also to invite disability activists to join them, the radical cripple activist Gisel Hermes published an incensed response in Die Randschau. Hermes explained to its readers the right-wing, gender-conservative, and anti-foreigner racist values animating the hard core of the antiabortion movement and denounced the way “we so apparently are being used as show-pieces for an action that trivializes the fascist crimes against the disabled.” Hermes was clear that “for the opponents of abortion only the unborn, not the born life, appears worthy of protection.” And the day of the demonstration and counter-demonstration, members of the Federal Association of Disabled and Crippled Initiatives
had spoken out about how “the abortion opponents chose this spot in order to defame and to criminalize women who undergo an abortion, by putting the mass extermination of the disabled on the same level as abortion today.” They rejected “this shameless equation,” pointing out further how the same conservative politicians who were working to erode abortion rights were also cutting funding for the very social services the living disabled so badly needed. “We cripples will not let ourselves be used as propaganda objects!”

Yet that same year, 1986, other feminists within the radical cripple movement were already reporting on their dismay and anger at what they saw as too many nondisabled feminists’ refusal to join in with a critique of the “eugenic indication.” “A wall goes up,” Swantje Köbsell and Monika Strahl explained, “they block off and refuse to engage the actual problematic,” “they accuse us of being opponents of abortion… but we are not against abortion per se, only against the aborting, as a matter of course, of fetuses that have been declared as ‘defective’ and therefore undesired.” This was the compromise position that would come to define the feminist disability movement. Abortion on any grounds aside from anticipated disability would be adamantly defended; abortion because of anticipated disability would be rigorously, righteously rejected.

Other – both male and female – members of the cripple movement as well as its nondisabled supporters would often be yet harsher in the language they chose. Over and over, the idea of aborting on grounds of disability was presented as in and of itself hurtful to living disabled individuals. Christoph had for instance written: “It makes me aggressive when I hear women say ‘I have nothing against the disabled, I accept them completely, but if I were to be expecting a disabled child, it should, if possible, be aborted!’ That reminds me of the father, who has nothing against blacks, but nonetheless throws his daughter out of the house if she is engaging in hanky-panky with a ‘negro.’” And in the wake of the Singer-affair, in the pages of
a journal on special education, the disability specialist Peter Rödler said that an abortion must be left up to the woman and her partner, but if the decision was made on grounds of knowledge of fetal disability, then “it is murder.”\textsuperscript{59} Both male and female activists called on women to boycott prenatal screenings as though to do so was in itself a moral imperative. In contrapuntal tandem with the antiabortion movement they otherwise despised, then, disability activists would come to develop – and would do so even more emphatically in the aftermath of the tumult over Singer – a historically wholly new singling-out for special condemnation of abortion on grounds of fetal abnormality, extending their repulsion at the proposal for active infanticide backwards into the pregnancy.

Already before Singer hit the news, in a roundtable published in the New Left journal \textit{Konkret} in April 1989, the well known feminist journalist and cofounder of a family planning clinic in Hamburg, Susanne von Paczensky, discussed the new perceived impasse between disability rights and women’s rights with Christoph and with three other women: the Green/Alternative List feminist Adrienne Goehler, feminist author Katja Lehrer, best known for a book on “raven-mothers” (the German expression for women who refused to perform a traditional self-sacrificial maternal role), and Hannelore Witkofski, a member of the Disability Forum as well as another radical cripple organization, AG SPAK. Von Paczensky saw through the emergent conundrums and made the point that the very existence of the exceptional circumstance surrounding the “eugenic indication” – allowing abortions in cases of anticipated disability up to 22 weeks, rather than the 12 weeks for the other indications – had been a sign above all of lawmakers’ concern not with whatever difficulties would ensue for an individual mother but rather with the concern that a disabled individual would be a burden on the national economy and thus for that reason his or her birth should be prevented. Indeed, she was convinced
that the existence of the “eugenic indication” was in fact a sign of how “extremely hostile to the disabled” German law and culture were. But she also thought the animus against women who sought prenatal diagnostics – and then in “1-2 percent” of cases went on to choose abortion – was inappropriate and overwrought. She held fast to her conviction that whether a woman had an abortion because she did not like children, or did not want one at a particular moment in her life, or whether it was because she did not want a disabled child, “that is okay…. We are not authorized to judge on what grounds women abort.” Witkofski, by contrast, openly charged that “cripples are being selected away before birth,” that this represented an attack “on my own life,” and – when challenged – said explicitly that, “Yes,” she was in favor of a “compulsory birthing of cripples.” Goehler, in reaction, noted that she found it “unbelievably brutal” for someone like Witkofski to say that a woman who was deciding against carrying a pregnancy with a disabled fetus to term was somehow therewith implying that she was “trying to get rid of all cripples in the world” – as “though people also wanted, after the fact, to abort you.” And: “We cannot solve the problem of a cripple-hostile society on the backs of individual women.” Witkofski, however, was adamant. Women who aborted (what she in furious sarcasm referred to as) “that cripple-stuff” were, in her view, “perpetrators.” Only von Paczensky (incidentally half-Jewish, who survived the Third Reich not least because her non-Jewish mother had refused to divorce her Jewish father and thus had counted as a “mixed” individual, a Mischling, and thereby avoided deportation) pointed out that solely the Nazis had murdered disabled people – and simultaneously they had punished abortion severely. Moreover, she noted, “in countries in which abortion has been liberalized, the disabled and the elderly and marginalized groups are generally treated with respect.” Her bottom line: “There is no indication that abortion has or ever had anything to do with the killing of human beings.” But this would prove to be a losing position.
In general, nondisabled feminists were ill equipped to respond to the conservative attacks on abortion once the flap over Singer had exacerbated the situation.\textsuperscript{61} Increasingly, the New Left (or what was left of it in the “alternative scene,” as well as the Green party, its partial offshoot) was on the defensive for having displayed a hugely disability-insensitive preoccupation with “healthiness” – as already before, but especially in the wake of the nuclear reactor explosion at Chernobyl in 1986, New Left and feminist periodicals had published some extraordinarily offensive images which lampooned disability as a likely outcome of technology run amok. For example, *Konkret* had published a (montaged) photograph of a woman without arms mockingly captioned “My mother was for thalidomide. Now she’s for atomic energy. Maybe this time she’ll be right.”\textsuperscript{62} Meanwhile, although they had occasionally argued with disability rights activists over abortion rights, a majority of feminists of the era shared with disability rights activists a reflexive distrust of reproductive technologies – these (as they were called) “newest inventions of the techno-patriarchy.”\textsuperscript{63} Already by the fall/winter of 1988, when Green party feminists held hearings about abortion in the Bundestag – urgently trying to collect arguments *against* the accusation that abortion was murder – they had also invited the disability activist Swantje Köbsell to address them and, moreover, concurred, as though it was self-evident, that reproductive technologies were profoundly immoral.\textsuperscript{64} By January 1990, dozens of feminist antireproductive technology groups, antifascist collectives, and prominent post-New Left journalists – including the editor of *Konkret* – had signed a declaration published in the leftist Berlin daily, *die taz*, against Singer’s right to speak.\textsuperscript{65}
But how did lawmakers – across almost the entire ideological spectrum – come to adopt the compromise formation first formulated by feminists in the cripple-movement? A complicated set of intersecting dynamics led to a fundamentally reshaped legal landscape between the fall of the Wall in November 1989 and October 1995, when a new law for unified Germany was approved. In the wake of the decision to unify in 1990, Western feminists had hoped that the accession of the former Eastern states, where abortion had been decriminalized in the first trimester since 1972, would lead to the adoption of a more liberalized handling of abortion also in the West; but conservative lawmakers – particularly in the Christian Social Union-dominated state of Bavaria – had, that same year, preemptively sought the opinion of the Constitutional Court in anticipation of a possible attempted liberalization while simultaneously providing their own arguments against abortions on all but the most narrowly construed grounds.

Western and Eastern feminist hopes were dashed in 1993 when, although the Bundestag had indeed in 1992 promulgated a law which decriminalized an abortion when it could be shown “to prevent a danger to the life or physical or mental health of a pregnant woman,” this law was voided by the Constitutional Court (relying in part on the Bavarian state’s positions) – on the argument that abortion must officially remain criminalized because of the Basic Law’s guarantee of “protection of life,” and that indeed women, in almost all circumstances, had “an obligation to carry pregnancies to term” (Pflicht zur Austragung). Nonetheless, the Court, in its decision, did endorse another aspect of the law proposed in 1992 – one which marked a shift from the prior two options, the trimester- and the indication-based models, to a new “counseling”-based model for handling abortions. The Court signaled that, not least in view of the unmistakable evidence that women’s reliance on abortion apparently continued to be quite pervasive, it would permit
the development of a law which, while maintaining the criminality of abortion, would simultaneously allow an abortion to go unpunished, if certain conditions were met. It left open what mix of indication and counseling models might be acceptable.  

The task now fell to the political parties, and then to the Bundestag as a whole, to propose new versions of the law. Revealingly, the new law proposed by the ruling Christian Democratic/Christian Social Party still included, as though self-evidently necessary, references to the need for an embryopathic indication – “in cases of medical, embryopathic and criminological indication, termination of pregnancy is in accordance with the law” – a sign that the bone of contention for Christian Democrats had all along been the traditional fourth, so-called “social indication” (the most widely used one, and the most contested because perceived by antiabortion forces to be inexcusably elastic), which was no longer being mentioned.

Ultimately, however – and whether we read this as a matter of complete contingency or of multifactor causation – it was in the final hashing-out by a cross-party committee of the various party proposals – a committee that included the Christian Democrat Hubert Hüppe, father of a disabled son and a staunch opponent of all abortions, whose minority proposal outlawing abortions on grounds of the “equivalent value of born and unborn life” had already been rejected by the Bundestag – that the embryopathic indication disappeared entirely (to be absorbed, quietly, into the maternal-medical indication). In the small print of commentary on the finally published law, it was explained, tersely, that “for ethical reasons the embryopathic indication has been struck, in order to prevent any misunderstanding to the effect that an anticipated disability of a child could be a legitimating basis for a termination.”

And so it was that a hardcore antiabortion conservative ended up being the one to give the radical disability rights movement the law that it wanted. Despite this manifest victory,
moreover, Hüppe’s group continued to fret that, potentially, “in the expanded medical indication, terminations on grounds of the disability of an unborn child could be camouflaged” – and it served notice to the legislature and the executive branch of government, via a formal inquiry in 1996, that it continued to be concerned about how the implementation of abortion law was meeting the concern that disabled lives must be valued equally with the nondisabled.\textsuperscript{74}

\textless Fig. 12 “NS-Euthanasie” with Hüppe photo here>\textgreater

In 2009, these efforts bore fruit. The Bundestag, after prior efforts in 2001 and 2004 had been stalled, formally set yet further restrictions – a three-day waiting period for “reflection,” heightened fines for any doctor discovered to be providing later-trimester abortions because of fetal disability without sufficient proof that bearing the child could definitively be construed as a threat to the woman’s mental health – as Christian Democrats garnered the needed support of Social Democrats and Greens specifically by presenting these amendments to the law as once more an advance for disability rights.\textsuperscript{75} From 2009-2013 Hüppe became Chancellor Angela Merkel’s Federal Commissioner for Disability Issues. And from this position, he has advocated against both stem cell research and preimplantation diagnostics in case of in vitro fertilization.\textsuperscript{76} The insight that “NS-Euthanasia” was “The Trial Run for the Holocaust” is part of his self-presentation (see Figure 12).\textsuperscript{77} In 2012 he joined the Europe-wide One of Us movement – the one that was instrumental in capsizing Portuguese European Union parliamentarian Edite Estrela’s Report on Sexual and Reproductive Health and Rights.


4 The best recent analysis of the intricate mutual imbrication of the murder of the disabled and the murder of European Jewry – with special attention not least to the role of erstwhile low-status asylum custodians as killers in the Operation Reinhard camps – is Sara Berger, Experten der Vernichtung: Das T4-Reinhardt-Netzwerk in den Lagern Belzec, Sobibor und Treblinka (Hamburg: Hamburger Edition, 2013).


*Der Spiegel* in 1984 cited as an estimation of the number of cases annually in West Germany of newborns permitted to die by withholding of care – among them cases of spina bifida, anencephaly, and Down syndrome without a functioning gastrointestinal system – at approximately 1200.

Portions of the interview were reported fairly immediately in Hans Schuh, “Lässt sich Euthanasie ethisch begründen?” *Die Zeit*, June 16, 1989; a retrospective account of the significance of the Saarbrücken interview is provided by Georg Meggle, “Schwierigkeiten der Medien mit der Philosophie,” *Telepolis*, March 22, 2005, available at:

http://www.heise.de/tp/artikel/19/19722/1.html. For criticisms of Meggle, see Oliver Tolmein, *Wann ist der Mensch ein Mensch?* (Munich: Hanser, 1993); and Henryk Broder, “The Nutsy Professor,” *Die Achse des Guten* (July 2005), available at:


Schuh, “Lässt sich Euthanasie ethisch begründen?” The further headlines came from, respectively, the *Dortmunder Rundschau* (May 24, 1989), the *Ruhr-Nachrichten* (June 10, 1989), and the *Westdeutsche Allgemeine Zeitung* (June 24, 1989). See Christoph Anstötz, “Peter Singer und die Pädagogik für Behinderte: Der Beginn der Singer-Affäre,” *Analyse & Kritik* 12 (1990): 131-148, here 137. In addition, critics of Singer urged federal and regional government ministers to investigate university curricula where Singer’s works were being read and/or called on faculty who had defended him formally to distance themselves from his views.


13 Anstötz, Hegselmann, and Kliemt, *Peter Singer in Deutschland*; for more on freedom of speech see also the blurb available at Amazon: [https://www.amazon.com/Peter-Singer-Deutschland-Diskussionsfreiheit-Dokumentation/dp/3631480148](https://www.amazon.com/Peter-Singer-Deutschland-Diskussionsfreiheit-Dokumentation/dp/3631480148).


15 Anstötz, “Peter Singer,” pp. 136, 141. On the connections between disability activism and HIV/AIDS-related activism (and Singer), cf. also Horst Ladenberger, “Ein Menschenbild von Behinderten gab’s schon immer: Versuch einer Standortbestimmung,” in Deutsche AIDS-Hilfe e.V., *Was heisst’n hier behindert? Beruehrungspunkte von Behindertenbewegung und AIDS-Hilfen* (1997), available at: [https://www.aidshilfe.de/sites/default/files/documents/Was%20hei%C3%9Ftn%20hier%20behindert%20Dokumentation%201997.pdf](https://www.aidshilfe.de/sites/default/files/documents/Was%20hei%C3%9Ftn%20hier%20behindert%20Dokumentation%201997.pdf). Other groups among the protesters were from such organizations as the Association of Disabled and Nondisabled Students, the (national) Alliance of Disabled and Cripple Initiatives, the student governments of the universities of Dortmund and Cologne, and the German Society for Social Psychiatry.

Meggle, “Bemerkungen,” p. 33, also quoted in Martin Blumentritt, “Das bioethische Netzwerk” (last updated April 7, 1998, but written originally in 1990 or 1991), available at: http://www.comlink.de/cl-hh/m.blumentritt/agr218s.htm. In addition to tracking the defenders of Singer and the various ways they dug in their heels and successfully advanced, both in Germany and internationally, the promulgation of Singer’s and related bioethical theories, this Blumentritt essay also summarizes the various evolving self-distancings and subsequent self-criticisms of some initial defenders of Singer’s right to promote his ideas.


For a critic of Singer who refers to it as “the Singer-affair,” see the philosopher Martin Blumentritt, “Von Singer zu Hitler” (April 7, 1998), available at: http://www.comlink.de/cl-hh/m.blumentritt/agr317s.htm; for a defender/promoter of Singer who does so already in 1990, see Anstötz, “Peter Singer”; for another defender who does so see Meggle, “Schwierigkeiten der Medien.”

Klee, “Euthanasie”. In this book, Klee had a longer version of the Stähle quote, made in response to a Protestant churchman named Sautter on December 4, 1940 (the records came from the trial of the doctors involved at the killing center of Grafeneck): “Where the will of God really counts and is followed through on, namely in free nature, there is no mercy for the weak and
sick… No ill rabbit can hold on longer than a few days: It becomes the certain plunder of its enemies and is thus saved from its suffering; that is why rabbits are always a 100 percent healthy society… The fifth commandment: Thou shalt not kill, that is not divine law, that’s a Jewish invention” (p. 16). The reference to animals as ruthless toward the weak and in this way a model for humans was another major Nazi theme. See for instance the film Alles Leben ist Kampf (All Life is Struggle, 1937) shown to NSDAP party members for training purposes. It begins by expounding on fights for survival among animals, but concludes with images of visibly disabled individuals with the clear implication, here also given a pseudo-religious gloss (implying that Nature’s way of preferring the strong is God’s will as well), that they should be done away with. See https://www.ushmm.org/online/film/display/detail.php?file_num=2553. Klee had a distinctive style, combining a wealth of at once emotionally shattering and highly evocative empirical details, frequently tellingly juxtaposed, with a deadpan searing sarcasm of tone. He was often resented by medical professionals – though they might grant that he had “a good nose” (eine gute Nase) for incriminating factoids – and by academic historians. Already in 1974 and 1980, Klee had published journalistic exposés of the conditions in institutions for the disabled, and he was one of the co-organizers, with Gusti Steiner, of the first militant public demonstration for disability rights, in 1975 – a wheelchair-induced traffic jam in the city center of Frankfurt/Main at rush hour to demand curb-cutting and the removal of other barriers to public access for individuals w disabilities. The pioneering English-language study by Henry Friedlander of the murders of the disabled, The Origins of the Nazi Genocide (1995), was in part made possible by materials that Klee gave him – sources that archivists and other guardians of implicating data had been keeping from seeing the light of day.


25 Already in 1980, the historian, psychiatrist, and psychiatric reform activist Klaus Dörner had sought to harness the – unexpectedly emotionally involved and empathic – reaction of millions of non-Jewish German viewers to the plight of persecuted and murdered Jews – presented in the broadcast on German television, in 1979, of the American miniseries “Holocaust” – specifically for the purpose of engaging Germans in concern about conditions for psychiatric patients and individuals with disabilities in postwar Germany. Dörner’s manifesto-cum-document collection was “dedicated to the psychiatrically, mentally, and physically disabled citizens killed in the ‘Third Reich’ and their families,” in its beginning pages invited readers to “think about the comparison 1940-1979,” and was titled in such a way as to invoke the American miniseries and to emphasize the reciprocal relationships between past and present and between the Holocaust and the T4 and other killings of the disabled: *Der Krieg gegen die psychisch Kranken: Nach*
'Holocaust' Erinnern, Trauern, Begegnen (The War against the Psychiatically Ill: After ‘Holocaust’ Remembering, Mourning, Encountering). In an extended explanation of the dedication, Dörner – who at that point thought the total of murdered disabled was 120,000 (a sign of just how unadvanced the historiography on these murders was at that historical moment) – remarked both that these victims had, “of all victims of the NS-regime, died the loneliest and most unwitnessed of deaths” and that it was especially important also to demonstrate solidarity with their families, for “of all those left behind by NS-victims these are the ones who have been most abandoned by us in their suffering. This persecuted group was the only one not recognized by us as persecuted and was denied compensation.” And “because we who are involved in the work of psychiatry, we who should have been responsible, have been, defending against guilt and fear, blind and silent, we have abandoned their families in their isolation.” Dörner expressly called on readers not only to meditate on the fact that on September 1, 1939, not solely “the extermination-war to the outside” (the attack on Poland) had begun, but also “the extermination-war to the inside” (as Hitler had deliberately backdated his order to kill disabled children to that same date), but additionally to ponder “to what extent and how this war to the inside is still continuing today.” The self-referential self-critical “us” and “we” was deliberate. The book opened with strikingly self-lacerating testimonials from psychiatric care workers about their sense of shame at the persistence of inadequate care for the disabled and for psychiatric patients in their present, included a memorandum from the German Society for Social Psychiatry from September 1, 1979, demanding psychiatric reform as well as (and despite official disinterest from the Federal Ministry of Health) numerous politicians’ and other public figures’ positive responses to the memorandum, and also reprinted scores of primary sources from the Nazi era from both perpetrators and objectors documenting the killings.
Note the assertive-informative subtitle to a headline in an article by Ernst Klee in 1990: Ernst Klee, “Der alltägliche Massenmord: Die ‘Euthanasie’-Aktion war der Probelauf für den Judenmord – Der Kreis der Opfer wurde bis Kriegsende immer mehr erweitert,” Die Zeit, March 23, 1990. (“The Everyday Mass-Murdering: The ‘Euthanasia’-Action was the Trial Run for the Judeocide – The Circle of Victims was Expanded Ever More Until the End of the War.”)

As he went on to elaborate this point, Singer showed considerable familiarity with the facts of Nazi euthanasia, yet simultaneously he insisted again on the categorical distinctions he saw between the two mass crimes (a sign once more, as if another were needed, of the complex relationship between facts and interpretation): “In the case of Nazism, it was the racist attitude towards ‘non-Aryans’ – the attitude that they are sub-human and a danger to the purity of the Volk – that made the holocaust possible. Nor was the so-called ‘euthanasia’ programme anything like the kind of euthanasia that could be defended on ethical grounds – as can be seen from the fact that the Nazis kept their operations completely secret, deceived relatives about the cause of death of those killed, and exempted from the programme certain privileged classes, such as veterans of the armed services, or relatives of the euthanasia staff.” And: “‘Doing away with useless mouths’ – a phrase used by those in charge – gives a better idea of the objectives of the programme than ‘mercy-killing’. Both racial origin and ability to work were among the factors considered in the selection of patients to be killed. There is no analogy between this and the proposals of those seeking to legalize euthanasia today.” Peter Singer, Practical Ethics (New York: Cambridge University Press, 1979), pp. 154-56.

An activist organization geared to achieving recognition and reparations for victims of involuntary sterilization as well as for family members of individuals murdered in the Nazi killings of the psychiatrically ill and cognitively handicapped linked the two matters in its very

Previously, these individuals had not had any ability to connect with each other but had each struggled in isolation, both in negotiations with the authorities and in coming to terms with their own traumas. Also in 1987, the Green Party formally took up their cause. In April of that year the party brought a proposal to the Bundestag to demand compensation for victims of involuntary sterilizations. The Bundestag rejected the proposal, claiming constitutional impediments (as it had never been clearly decided whether the law of 1933 had been rescinded by the military occupiers in 1945 or whether it had remained in force and also, as a separate matter, whether the Basic Law promulgated in 1949 – West Germany’s equivalent of a constitution – had obviated any need to repudiate Nazi legislation since it simply superceded it, and these irresolvable niceties kept anything from happening) while, in addition, legislators admitted that they were worried about the budgetary implications should victims of involuntary sterilization be legally permitted to lay claim to compensation; the ensuing unsatisfactory compromise led to the Bundestag in 1988 repudiating the judicial decisions made on the basis of the 1933 law but not the law itself. Nonetheless, this decision of 1988 did mark a shift in that the involuntary sterilizations began to be seen as the injustices they had been. (Not until 2006 did the Bundestag repudiate the law itself.)
Postwar experts strenuously contested the idea that the sterilizations could be understood under the rubric of racism. Just to give one example: Hans Nachtsheim, a physician who had in the 1940s – historians found – “conducted experiments on children who had epilepsy and on organs taken from prisoners murdered at Auschwitz,” was on the committee appointed by the West German government in the early 1960s to decide whether victims of coerced sterilizations should receive compensation. In a medical journal, Nachtsheim wrote in 1962 “About the Law for the Prevention of Hereditarily Diseased Offspring of 1933 from the Present-Day Perspective” that: “We must at long last stop throwing the Law for the Prevention of Hereditarily Diseased Offspring into the same pot with National Socialist racial laws.” Among his reasons was that “thereby a future law on hereditary diseases, which must come, is once again preemptively discredited.” See Svea Luise Hermann and Kathrin Braun, “Das Gesetz, das nicht aufhebbar ist: Vom Umgang mit den Opfern der NS-Zwangsterilisierung in der Bundesrepublik,” *Kritische Justiz* 43.3 (2010), pp. 338-352, here 344. The Nachtsheim essay they are quoting is: Hans Nachtsheim, “Das Gesetz zur Verhütung erbkranken Nachwuchses aus dem Jahre 1933 aus heutiger Sicht,” *Ärztliche Mitteilungen* 59 (1962), pp. 1640ff. Nachtsheim had initially conducted experiments on rabbits to see whether reduced air pressure through loss of oxygen could trigger seizures; in 1943 he transferred these experiments to six epileptic children from the Brandenburg facility. In the case of organs from Auschwitz, it was the eyes of victims that he worked with. Another theme which concerned him in the early 1960s were the birth defects caused by thalidomide; Nachtsheim downplayed the causative effect of the pharmaceutical and instead emphasized purported hereditary vulnerability of the pregnant women affected.
A number of historiographical interventions changed the conversations considerably. By 1983, the German historian Gisela Bock had published a pioneering article in English entitled “Racism and Sexism in Nazi Germany: Motherhood, Compulsory Sterilization, and the State”; by 1986 her comprehensive German-language book on the compulsory sterilizations in the Third Reich had been published, with the subtitle clearly announcing that the topic concerned “racial politics and gender politics.” In 1985, a group of young New Left-linked historians around Götz Aly and Karl Heinz Roth began publishing a series entitled Beiträge zur nationalsozialistischen Gesundheits- und Sozialpolitik (Contributions to National Socialist Health- and Social Politics), which took on numerous topics relating to eugenics and euthanasia and saw itself as documenting how Nazi social policy needed to be understood as racial policy. All of this was happening in a political climate in which it was increasingly common to call for both research and activism on behalf of what were, by that point, often called the “forgotten victims” (the “asocials,” the victims of sterilization, the handicapped and psychiatric patients, Roma and Sinti, and male homosexuals). And while this was a somewhat infelicitous description since the use of the term could, and did at times, imply that somehow Jews had gotten “too much” attention (an implication which failed to acknowledge just how much antisemitic ressentiment had accompanied that attention), it was apt insofar as it accurately described groups whose efforts to be included as persecutees had often been rebuffed. Furthermore, in midst of all these developments, historians began not just to study either the sterilizations or the murders, but to think them together. In 1987, the historian Hans-Walter Schmuhl published an influential book
whose title (in English: “Racial Hygiene, National Socialism, Euthanasia” indicated its commitment to seeing both the sterilizations and the murders of the disabled within a “racial hygiene” framework, and whose subtitle (“From the Prevention to the Extermination of ‘Life Unworthy of Life’, 1890-1945”) made explicit Schmuhl’s conviction – shared by many – that the coercive sterilizations had indeed been a stepping-stone on the path to mass murder. Were the sterilizations in fact such a stepping-stone? Some scholars begged to differ, insisting on keeping eugenics and euthanasia analytically distinct. But in the back-and-forth of scholarly arguments of the time, their position was seen primarily as an effort to keep some historical variants of eugenics (for example, Weimar-era socialist eugenics) free of the taint of the euthanasia murders.

And in 1991, a notable anthology edited by the historian Norbert Frei, Medizin und Gesundheitspolitik in der NS-Zeit (Medicine and Health Policy in the NS-Era) sponsored by the prestigious Institut für Zeitgeschichte (Institute for Contemporary History) in Munich, brought the new scholarly questions and answers – including the work of Schmuhl – to an even broader audience. Also by 1991, the crucial critical English-language synthesis of the accumulating research was published, a British-German coproduction: Michael Burleigh and Wolfgang Wippermann’s The Racial State: Germany 1933-1945 (Cambridge, UK: Cambridge University Press, 1991). A few years later still, Burleigh would also publish Death and Deliverance, his major study of the disability murders. Finally, by the mid-1990s, all of this work began to be absorbed into the field of Holocaust studies as well – a field just then newly expanding not least due to the opening of Eastern bloc and Soviet archives in the wake of the collapse of Communism, but also acquiring broader standing as the US Holocaust Memorial Museum opened its doors in 1993. A signal development was the publication of the American historian Henry Friedlander’s The Origins of the Nazi Genocide in 1995. Friedlander recounted, in the
book’s opening pages, that it had been “by the mid-1980s” that “my reading of the documents had convinced me that the euthanasia program had been intimately connected to Nazi genocide.” Nonetheless, “I still thought of euthanasia as only a prologue to genocide.” It was because of work done by German scholars – including archival documents given him by Ernst Klee, but also such work as that of the geneticist and historian Benno Müller-Hill on scientists’ involvement in the crimes of Nazism (profiled, as Schmuhl had been, in the Frei anthology) – that he began to see “that euthanasia was not simply a prologue but the first chapter of Nazi genocide.” Friedlander’s new conception was that it had been a mistake that prior “historians have categorized the Nazis’ murder of the European Jews as totally different from the murder of other groups.” For Friedlander, the disabled, like Jews, had been targeted “because they belonged to a biologically defined group…. Jews were not the only biologically selected target.” Friedlander thus demonstratively began with a chapter on the sterilization program both for the disabled and for Roma and Sinti (whom Friedlander also believed should be counted as victims of the Holocaust). For as one reviewer appreciatively noted (it was Müller-Hill, writing in the respected Frankfurter Allgemeine Zeitung) – and here one can see the evolving scholarly consensus taking shape – “from depriving the disabled of their civil rights [as exemplified by the sterilizations] a direct path led to their murder in the ‘euthanasia-project.’” Once more, the framework that connected the sterilizations and the murders was confirmed. Benno Müller-Hill, “Rezension: Sachbuch Massenmord und Raubmord,” Frankfurter Allgemeine Zeitung, February 16, 1998, available at: http://www.faz.net/aktuell/feuilleton/politik/rezension-sachbuch-massenmord-und-raubmord-11308437.html.

32 Burleigh and Wippermann, The Racial State, pp. 3-4.

33 See the summary in Meggle, “Bemerkungen.”
The best explanations of the recent findings, based on sources discovered after the fall of the Wall and worked through carefully between 1995 and 2006 (noting the smaller-than-implicitly assumed overlap between the categories of victims who were sterilized and those who were murdered, finding that economic factors and capacity to work played a larger role in escaping the gas chambers than Nazi racial theories and hereditary-biological factors), and of why these have been perceived as threatening although they need not be, can be found in Maike Rotzoll et al., “Die nationalsozialistische ‘Euthanasie’-Aktion ‘T4’ und ihre Opfer: Von den historischen Bedingungen bis zu den Konsequenzen für die Ethik der Gegenwart: Eine Einführung,” and Marion Hulverscheidt, “Zusammenfassung der Podiumsdiskussion: ‘Die Selektion: Neue Erkenntnisse?’,” both in Rotzoll et al., eds., Die nationalsozialistischen ‘Euthanasie’-Aktion ‘T4’; and Herwig Czech, “Nazi Medical Crimes, Eugenics, and the Limits of the Racial State Paradigm” (2009), forthcoming in Mark Roseman et al., eds., Beyond the Racial State (New York: Cambridge University Press, 2017). Czech – in what might be termed a turn to a “bioeconomic” understanding of racism, notes that “eugenic” sterilizations and “euthanasia” murders were both often based on social diagnostics and cost-effectiveness calculations.

Notably, and coinciding in time with the 2006 conference in Heidelberg where many of the most important new findings were first controversially presented, the Bundestag – finally, after decades of sustained activism to achieve this end – decided to repudiate not just the coercive sterilization verdicts (which it had done in 1988) but also the 1933 “Law for the Prevention of Hereditarily Diseased Offspring” itself. In the application for this formal repudiation – which is deeply moving to read – the historiographical achievements of the 1980s, especially the connecting of “eugenic” sterilizations as a “precursor step” to the “euthanasia” mass murders, remains fully in evidence. The repudiation was cosponsored by Christian Democrats/Christian

35 A flood of articles in national and regional newspapers, numerous television programs, and multiple books written for popular audiences testified to the sudden presence in the public sphere of the radical disability rights movement’s perspectives. An early recognition of having arrived can be seen in Franz Christoph, “(K)ein Diskurs über ‘lebensunwertes Leben’!,” Der Spiegel, June 5, 1989, pp. 240-42. Singer noted the phenomenon as well, though he also took note of the pleasing irony that the controversy had revived flagging sales of Practical Ethics (“The book sold more copies in the year after June 1989 than it had in all the five years it had previously been available in Germany.”) Singer, “On Being Silenced.”

36 Aviad Raz, “‘Important to test, important to support’: attitudes toward disability rights and prenatal diagnosis among leaders of support groups for genetic disorders in Israel,” Social Science and Medicine 59 (2004), pp. 1857-66, here 1857. The view from outside does suggest that the German situation need not have turned out in the way it did. Looking, in the first decades of the twenty-first century, at the situation that has evolved in Germany, Israeli genetic counselors have criticized the official German position of moral outrage directed specifically and solely at abortion on grounds of fetal disability as “‘absurd,’ ‘impractical,’ ‘high-minded’ and even ‘bullshit.’” See Yael Hashiloni-Dolev and Aviad E. Raz, “Between social hypocrisy and social responsibility: Professional views of eugenics, disability and repro-genetics in Germany and Israel,” New Genetics and Society 29.1 (2010), pp. 87-102, here 94. In Israel, also disability rights groups have tended toward the “two-fold view of disability,” one in which they respond
in favor of prenatal genetic testing as well as selective abortion, while at the same time expressing their commitment for already-born individuals.” The general idea is that it is “important to test,” and also “important to support” – and these two are seen not as contradictory but rather mutually complementary. Raz, “‘Important to test.’” Indeed, increasingly also ultra-Orthodox communities, traditionally uncomfortable with prenatal diagnostics and opposed to abortion, are developing new rabbinic leadership in “koshering” both – always with a view to the specific ability, or absence thereof, of a particular family lovingly to handle the birth of and care for a disabled child. See Tsipy Ivry, “The predicaments of koshering prenatal diagnosis and the rise of a new rabbinic leadership,” _Ethnologie française_ 45.2 (2015), pp. 281-292. Interestingly, moreover, it is also Israeli social scientists who have managed to elicit from German genetic counselors what they have summarized as the “hypocrisy” and “non-honest discussion” in the German situation. Anonymously, German genetic counselors have commented on “a group dynamics that blocks moral thought” and “leads… to moral hypocrisy”: “I personally,” one genetic counselor admitted, “feel that it is very difficult for me to state a non-official opinion that does not have to do with high moral principles but with the difficult reality of human life… Everybody has to support the official opinion, and hide what he really thinks, or he may be strongly criticized.” Or, as another put it: “I believe the parents of the disabled are not so different in Germany than elsewhere, privately they don’t want another sick child, but they don’t dare argue in public. The ones who argue are the talented and the smart among the handicapped, those with political power. The thing is that only they are heard, not the really miserable ones.” Moreover, this person continued: “I do believe society is richer with the disabled. But who has to pay the check for the education society needs? At the end of the day it is the disabled themselves, and their families, who have to deal with all the problems, and I don’t see it as their duty to live
in order to educate us. I don’t think my patients should suffer for me to have an educational humanistic experience.” Quoted in Hashiloni-Dolev and Raz, “Between social hypocrisy and social responsibility,” pp. 93-95.

37 E.g. see “Sterbehilfe – der Tod als Freund,” Der Spiegel, February 10, 1975, pp. 36-60.

38 For a powerful ethical counter-argument that passive letting-die by withdrawing care was the better course, see the interview with the New School philosopher Hans Jonas: “Mitleid allein begründet keine Ethik,” Die Zeit, August 25, 1989.


40 Singer, Practical Ethics, p. 97. Also in his 2011 revision, Singer persisted with this point: “We should reject the doctrine that killing a member of our species is always more significant than killing a member of another species. Some members of other species are persons; some members of our own species are not…. So it seems that killing a chimpanzee is, other things being equal, worse than the killing of a human being who, because of a profound intellectual disability, is not and never can be a person.” Peter Singer, Practical Ethics (Cambridge, UK: Cambridge University Press, 2011), p. 101.

41 Klee, “Von Menschen und Tieren.”

42 Christoph had contracted polio one year after birth and had been subjected to multiple, severely painful, operations in the years since. After the incident w Carstens, Christoph complained that he was being condescended to as a disabled person by having been permitted to stay in the events hall after the act rather than being arrested on the spot as a nondisabled person would have been. In 1983 he had protested the peace movement’s demeaning representations of disability as among the damages caused by war. And in 1987 he had occupied the foyer of Der Spiegel's main offices because – in their coverage of a rise in reported cases of Down syndrome
in the wake of the Chernobyl nuclear reactor disaster a year earlier – the newsmagazine had remarked in passing, infelicitously, that Down was “the most common, just barely still compatible with life, malformation [die häufigste, gerade noch mit dem Leben zu vereinbarende Missbildung].” “Bedrohung der Kinder,” Der Spiegel, April 13, 1987, p. 237. Now, in June of 1989, in the heat of the arguments over Singer, the newsmagazine was giving him an open forum.

43 Christoph, “(K)ein Diskurs.”
44 Christoph, “(K)ein Diskurs.”
46 1979, pp. 126, 131.
47 Before Singer, the philosopher Michael Tooley had similarly used the acceptability of abortion as a reason to raise questions about the possible acceptability of infanticide – and Tooley had already mockingly noted that one of a “liberal’s” biggest philosophical difficulties involved the problem of “specifying a cutoff point” at which a being had a right to life (Tooley clearly disagreed that viability or birth should be the place to draw the line between permissible and impermissible killing). Although less insistent on the issue of animal rights and less repetitively focused on the killing of disabled children, both themes were already in Tooley as well, as was “the question of what makes something a person.” In Tooley’s curiously passive phrasing, “Most people would prefer to raise children who do not suffer from gross deformities or from severe physical, emotional, or intellectual handicaps. If it could be shown that there is no moral objection to infanticide the happiness of society could be significantly and justifiably increased.” Michael Tooley, “Abortion and Infanticide,” Philosophy and Public Affairs 2.1 (Autumn 1972), pp. 37-65, here 38-39.

Helen Keller Kreis in the press release, p. 13; Ulrich Ochs (Waldborn near Karlsruhe), letter to Federal President Philipp Jenninger, no date (presumably 1985), also reprinted in *Die Randschau* 1.3 (Aug/Sept 1986), p. 13. The letter was also sent to all major newspapers. The letter included the statement: “I can see no difference between the racial ideology of Hitler and the ‘criminal code reform’ of the abortion paragraph 218. Through the so-called ‘eugenic indication’ the disabled are sent a second time to a ‘modern Auschwitz.’” Ochs again came into public in 2016 with the touching and happy news that he (as it turns out, of short stature) had fallen in love with and married a woman (with cerebral palsy) and that she, despite her own disability, had borne their little boy (who, in their view luckily, had inherited his condition). See Nina Job, “Handicap-Familie: ‘Was Besseres konnte uns nicht passieren,’ *Abendzeitung* (Munich), January 18, 2016, available at: http://www.abendzeitung-muenchen.de/inhalt.mutter-und-vater-mit-behinderung-handicap-familie-was-besseres-konnte-uns-nicht-passieren.ff70e512-e3fa-4998-a0de-a50039dab9d3.html.


52 The book included as well the stories of disabled women testifying to the horrendously condescending experiences they had endured when they sought abortions for unwanted pregnancies – as doctors, far from objecting to their desire for terminations, eagerly provided them (often in conjunction with recommending sterilizations), specifically because they did not believe that disabled women should reproduce at all. For example: One woman who used a wheelchair wrote about her reasons for choosing abortion. (She had forgotten to take her birth control pill one day; her boyfriend had just started his university studies, and was worried that he might, if they chose parenthood, have to break these off again.) The woman recounted how distressing it had been that while she was quickly granted the right to an abortion, she was told that it would be much easier to get it on the grounds of a maternal health indication – i.e. an implicit judgment on her lack of fitness, because of her disability, to raise a child – than on the actually more-accurate-to-her-situation grounds of a social indication, and how dismayed she had been that one of the doctors whose approval she needed both treated her contemptuously and – again in view of her disability – suggested that she go ahead and take the opportunity of the abortion to get sterilized as well; she was terrified that she would be sterilized against her will, and never knew whether in fact during the dilation and curettage procedure more of her had been “scraped out” than was necessary. Another contributor to the volume told a similar story of having had doctors prefer – with reference to the disability – the medical maternal health indication to the social indication, even though once again the social indication was more suited to the circumstances. Yet a further contributor encouraged all women with disabilities, should they need an abortion, to demand the social indication – in order to be seen as female “and no

But the volume additionally included an essay, “We Cripple-Women and the Paragraph 218,” which directly tackled the “eugenic indication” – labeling it, unequivocally, as in itself “a discrimination of cripples.” Acknowledging that it might seem “contradictory” to be, on the one hand, battling for women’s self-determination and rejecting all scrutiny of women’s reasons for seeking abortions while, on the other, labeling the eugenic indication in itself discriminatory, expressing awareness that “up until now only the reactionary, clerical crowd has taken up the embryopathic indication… and we need to be very careful not to give these people grist for their mill,” asserting that they were “not indicting” women who had aborted on those grounds, and also acknowledging that the matter had not yet been debated either within the women’s movement or the disability movement, the authors nonetheless staked out a clear stance in opposition to the eugenic indication “Wir Krüppelfrauen und der Paragraph 218,” in Boll et al., Geschlecht: Behindert, p. 80. It was this latter position that was to have enduring implications.

53 Incredibly enough – and while 300 counter-demonstrators, including Hermes herself along with many other individuals with disabilities and representatives of feminist groups, had shown up at Hadamar the day of the demonstration in order to offer a different interpretation of the lessons of that place at which, during the Third Reich, 15,000 individuals had been murdered by gas and by poison – an agitated antiabortion activist woman had screamed at Hermes (who was there in a wheelchair): “‘Why don’t you kill yourself, you are not worthy of living. Under Hitler something like this would not have happened!’” Gisel Hermes, “Mensch achte…,” Die Randschau 1.3 (Aug/Sept 1986), pp. 11-12.

Swantje Köbsell and Monika Strahl, “Recht auf behindertes Leben: Humangenetik, die ‘saubere Eugenik’ auf Krankenschein,” *Die Randschau* 1.3 (Aug/Sept 1986), pp. 9-10. They reported further that while nondisabled feminists and leftists gladly criticize “the ‘evil’ state” and what they too see as “a means of control over women’s bodies in order to enforce the population-political aims of those who rule” – which they too vigorously believe is “an incursion into a woman’s right to self-determination” – the minute these same individuals were asked to call for, or abide by, abolition or boycott of prenatal diagnostics, “the personal – emotional – side of the matter comes into play.” These women “want to know whether their child will be disabled or not. Unfortunately it is hardly possible to address this contradiction.”

For instance, when Köbsell was invited by Green Party feminists to address a Bundestag hearing on abortion rights in the Bundestag in November 1988, she expressly declared: “We are for the right of the woman to get an abortion, and decide whether she wants a child or not. But we are against the aborting of a fetus solely on the grounds of its deficient quality, at a point when the woman had actually already decided in favor of carrying the pregnancy to term.”

Swantje Köbsell, “‘Unwertes Leben’ darf abgetrieben werden – Bevölkerungspolitik in der BRD,” in *DIE GRÜNEN im Bundestag, Arbeitskreis Frauenpolitik, Bevölkerungspolitik und Tötungsvorwurf: Dokumentation zweier Foren der GRÜNEN Frauen im Bundestag.... 21. Nov. 1988 ... 5. Dez. 1989* (Bonn, 1989), p. 30. Köbsell reported as well that she and other disabled women felt “attacked in our own right to life” (*in unserem Lebensrecht getroffen*) when nondisabled women either defended or sought prenatal testing. Meanwhile, Köbsell also noted – and in this she was of course correct – that only a small minority of disabling conditions was even visible in prenatal tests – whether amniocentesis or ultrasound. She phrased it somewhat differently, saying that at most “five to ten percent” of all disabilities even *existed* before birth,
with “the remaining 90 to 95 percent occurring during birth or after” (p. 30). For her, this served as yet another reason to boycott prenatal testing. (Inevitably, those statistics have changed with the development both of preimplantation genetic testing for in vitro fertilizations and the non-invasive prenatal screening available for all pregnant women since 2011, but the proportion of disabling conditions that are legible in the genetic material remains low. Among other things, there are no genetic markers (yet) for autism and, both in view of the blurrily-bounded umbrella category that it is and in view of the most recent epigenetic findings suggesting that environmental conditions can have an impact on gene expression, not to mention any number of random things that can go awry in the course of a pregnancy, the proportion is likely to remain low. There will always be disability.)

57 Christoph, for instance, was especially vehement about “the almost matter-of-course prenatal prevention of cripple-misery” which, in his view, “also affects us living cripples…. I am afraid at the thought, that there is a growing readiness to prevent something like me from the beginning and even to present oneself as ‘humane’ in doing so.” In his 1983 book, *Krüppelschläge: Gegen die Gewalt der Menschlichkeit* (Crutch-Strikes: Against the Violence of Humanitarianism), Christoph had confronted self-understood progressive defenders of abortions for reasons of disability with the imaginary comparison of arguing that “blacks in [apartheid] South Africa cannot be expected to burden themselves with having children, because these would be at the mercy of oppression” (p. 35).

58 Christoph, *Krüppelschläge*, p. 35. Again in 1989, Christoph expressed outrage that the feminist movement was demanding abortion rights, but not coupling that with a stance in clear favor of disability rights and against “eugenic selection.” Christoph in “Krueppelschlaege: Wie weit reicht das Selbstbestimmungsrecht der Frau?” *Konkret* 4 (1989), pp. 41-48, here 42.
Peter Rödler, “Editorial,” *Behindertenpädagogik* 29/1 (January 1990), pp. 2-6, here p. 5. This remark by Rödler is also quoted in Susanne Ehrlich, *Denkverbot als Lebensschutz? Pränatale Diagnostik, Fötale Schädigung und Schwangerschaftsabbruch* (Opladen: Westdeutscher Verlag, 1993), p. 195. Ehrlich provides an original and provocative argument about the just-then-growing hostility to women who sought prenatal diagnosis and, after having done so and learned of an anomaly, chose to terminate their pregnancies. Building on prior work by her advisor, the sociologist Gerhard Amendt, who had studied the ascent of the accusation that abortion was equivalent to murder, Ehrlich proposed that unconscious rage and fear at the prospect of a woman refusing to be an unconditionally loving and self-giving mother fueled much antiabortion activism and was especially exacerbated in the case of a disability pregnancy. See also Gerhard Amendt, *Die bestrafte Abtreibung: Argumente zum Tötungsvorwurf* (Bremen: Ikaru, 1988); and Gerhard Amendt with Michael Schwarz, *Das Leben unerwünschter Kinder* (Frankfurt am Main: Fischer, 1992).

Susanne von Paczensky et al. in the roundtable published as “Krüppelschläge.” Christoph noted that this was “the first time” such a discussion about the competing pulls of abortion rights and disability rights had taken place.

The one major feminist venue which ran an essay defending Singer and also defending abortion on grounds of fetal disability – the magazine *Emma* – would find its offices the object of a rampage when women in monkey-face masks destroyed 100,000 Deutschmarks worth of office equipment and spray-painted the walls with “Emma engages in selection!,” “Enough with the racism!”, and “Euthanasia is violence.” See “Islamismus: Der Überfall,” *Emma* (July/August 1994). *Emma*’s counter-charge of “Islamism” was an (obviously racially inflected) barb directed
at the intruders to convey what *Emma* saw as their fundamentalism and intolerance. The original offending article was Filter, “Das Affentheater.”

62 *Konkret* image reprinted in Udo Sierck, *Das Risiko nichtbehinderte Eltern zu bekommen: Kritik aus der Sicht eines Behinderten* (Munich: AG SPAK, 1989), p 77. The New Left journal *Konkret* was the most offensive (although the Berlin-based daily *tageszeitung* was not far behind, and also a well-known feminist cartoonist contributed to the derogatory representations of disability). In addition to the 1985 thalidomide item, in 1986, in the wake of the Chernobyl reactor disaster, the prominent and beloved *Konkret* cartoonist Ernst Kahl, in his regular “children’s corner,” drew an elaborate cartoon which commented on Ronald Reagan’s “Star Wars” Strategic Defense Initiative launched in 1983 (with a reference to Reagan’s Defense Secretary Caspar Weinberger) and simultaneously on the Chernobyl radiation fallout. Under the opening remark that “More and more children are coming into the world with malformations. Some piece is missing, or it’s stuck in the wrong place. But everything has its good sides, as you’ll soon see,” the cartoon went on, in the guise of describing children’s games, to show how “Everything’s not so bad.” Thus, “Peter” sits in a glass jar – and his sister can show him off and carry him around. “Nelli” can win at Blind Man’s Bluff because she has a third eye, on her forehead, and can see above the blindfold. “Wotan” can go snorkeling without a snorkel because his nose sits on top of his head. “Tom” can play Indian because he has a birdfeather growing out of his head, while “Bärbel” can save the entrance fee to the zoo since when she looks in the mirror, her own face is that of a monkey’s. And “Dragon” – clutching a little American flag in his baby hands – simply looked blank. “He has nothing in his head. He just smiles all the time. He’s not understanding anything. Everyone is jealous of him!” Along related lines, the feminist cartoonist Franziska Becker published a cartoon in the feminist women’s magazine *Emma* in
1986 in which an indecipherable blob in a playpen is being spoon-fed while a visitor asks the father “I don’t know, does he look more like you, my boy, or more like Susanne?” These two images were published and criticized by Köbsell and Strahl, “Recht.” In 1989, the *tageszeitung* published a cartoon in which talking monkeys in a jungle discussed why a particularly “ugly” monkey-child had been born (“a mutation… since the start-up of the nuclear power plant, that’s been happening… more frequently”). Reprinted in Sierck, *Das Risiko*, p. 72.

On some nondisabled Green feminists’ extraordinary commitment to sensitivity and solidarity with disabled feminists, see Verena Krieger, “Selbstbestimmung der Frau – eine grundsätzliche Debatte,” in DIE GRÜNEN, Bevölkerungspolitik, pp. 9-13; and the brilliant overview of the state of debate over how best to defend abortion rights in Verena Krieger, “Die neue Abtreibungsdebatte in der Frauenbewegung,” *Blätter für deutsche und international Politik*, 3 (1989), Sonderdruck nr. 365, pp. 3-10. The quote is from Maria Mies, who – notably evincing a different kind of insensitivity – went on to argue that reproductive technologies represented a “‘new eugenics on a global scale’ that would make Hitler’s racial politics seem like mere ‘child’s play.’” Quoted and discussed in Kimba Allie Tichenor, *Religious Crisis and Civic Transformation: How Conflicts Over Gender and Sexuality Changed the West German Catholic Church* (Lebanon, NH: UPNE, 2016), p. 202. The shared suspicion – once again, the embryo was being detached from the living woman and being made an object for male doctors, said some otherwise prochoice feminists – and the desire to show sensitivity and solidarity especially toward feminist women with disabilities, were major factors hampering the development of arguments which distinguished between abortion and murder. Suspicion of doctors made sense in a post-Nazi nation, in which indeed there were numerous continuities of personnel and attitude across the divide of 1945; feminist objections to the intrusion of science into natural processes
and the prospect that embryos could be used for research purposes or meddled with in any way converged with broader environmentalist trends. Not every feminist was so ardently opposed to reproductive technologies that she would, as some did, break into the offices of genetic counseling centers and smash the equipment. (Die Randschau reported on one such incident.)

But – as became clear at the latest in the protests against Singer – there were already in existence dozens of feminist organizations with such names as “Rhein-Main Rats Against Gen- and Reprod-Nonsense,” “Women Against Genetic and Reproductive Technology” (from Darmstadt, Frankfurt, and Mainz) along with “Mixed[-Gender] Group Against Genetic and Reproductive Technology”, and the “Cripple-Women Group Against Genetic and Reproductive Technologies and Eugenics West-Berlin.” See “Wider den tödlichen philosophischen Liberalismus,” die tageszeitung, January 10, 1990. Apparently the “Women Against Genetic and Reproductive Technology” conference held in Bonn in 1985 was the first time that a public call was made for “abolition or boycotting of genetic counseling.” (Green party feminists were coorganizers of this conference; approximately 2000 women from Germany and abroad attended.) Tichenor, Religious Crisis, p. 201.


“Wider den tödlichen philosophischen Liberalismus,” also reprinted in Die Randschau 5.1 (Jan-April 1990): 24. For Singer’s defenders to complain that protests against him had become violent was, the undersigned declared, “an inversion of the actual violence-relations.” The life-right of the disabled, they contended, should not be “discussable.” They also pinpointed, as a
sign of just how disability-hostile the society was, the way that “genetic counseling and the prenatal selection of disabled fetuses is treated by doctors and jurists as ‘responsible pregnancy precaution.’” And they averred that “Whoever does not participate in this ‘voluntary eugenics’, is increasingly discriminated against.”

66 It may be worth noting here that in 1983, Catholic church leaders had been distressed to learn that an opinion survey showed West Germans considered the killing of baby seals a more serious moral offense than abortion; taking their cue from the rising popularity of the Green Party, Catholic conservatives learned to use environmentalist arguments in their antiabortion campaigns. By 1989, they had additionally picked up on the disability rights movement’s objections to terminations based on prenatal testing. In a document co-written with Protestant religious leaders, Gott ist ein Freund des Lebens (God Is a Friend of Life), endorsed in November 1989 by the head of the German Council of Bishops, they argued, in an extended discussion of many dimensions of disability rights, that: “Finally, we cannot overlook the mentality that could develop concerning the life of disabled persons and their acceptance by society as a result of the coupling of prenatal diagnosis and abortion…. Society could reach a point where it no longer accepts disabled children. They need not have been born. For the self-image of the disabled, the consequences would be incalculable, given such an assessment by the world around them.” Never before, as the historian Kimba Allie Tichenor has written, had the German bishops “framed their objection to abortion in terms of a violation of the rights of the disabled.” Discussion and quote translation in Tichenor, Religious Crisis, p. 205; the document is available at: http://www.ekd.de/EKD-Texte/gottistfreund_1989_freund6_3.html. The self-evidence with which fetal abnormality had once been seen as an understandable, morally permissible grounds for termination – not, certainly, by the Catholic church leadership, but by
the general populace – is evident in statistics from the early 1970s. In a 1971 survey, 83 percent of Germans and 80 percent of Catholics questioned stated their conviction that this was so (this in contrast to 54 percent of the total population, 51 percent of Catholics who thought women should have an unconditional right to an abortion, for any reason). Tichenor, Religious Crisis, Appendices.

The 1980s saw an efflorescence of conservative politicians’ efforts to recriminalize abortion more completely. Different strategies were being employed, among them the effort to declare that only abortions undergone on grounds of danger to maternal health should be covered by insurance companies; more than fifty Christian Democratic and Christian Social politicians had put forward a formal proposal in the Bundestag that abortions on grounds of the “social indication” – the most widely used one – should be paid for by the woman herself; at the same time, they launched an initiative, “Mutter und Kind” (Mother and Child) that aimed to give some financial assistance to women willing to carry their pregnancies to term. This initiative – as small as the sums were – had substantial symbolic importance not least because they made the claim that abortions were needed on social indication grounds harder to justify. At the same time, to add to the ironies, social services were more generally suffering cutbacks. See “Die Reform des Paragraph 218 in Gefahr,” in Boll et al., Geschlecht: Behindert, esp. pp. 76-78. By 1989, feminist politicians in the Green Party were sufficiently alarmed by the rollback apparently underway that they organized a series of hearings in the Bundestag in order to re-articulate, for legislators’ sake, the reasons that Paragraph 218, which regulated abortion, should be abolished entirely and to rebut what was called, in the terminology of the time, the “murder-charge” (Tötungsvorwurf) – the accusation that abortion and murder were indistinguishable. The Green Party, once conservative environmentalists had split away, had become the voice, in the West
German party-political arena, in defense of abortion rights – and took heat from the other parties for that reason alone.

Bavaria had long been a conservative outlier among the Western states, and a court case brought in 1988-1989 against a doctor who had provided abortions to hundreds of desperate women in the Bavarian town of Memmingen had riveted the nation’s attention as dozens of his female patients, called as witnesses, were subjected by the court to a glaringly public, devastating intrusion into the most intimate aspects of their private lives, the quality of their sexual and romantic relationships, and the exigencies of their financial and familial situations – supposedly because the state’s attorney and the court were concerned that perhaps in some cases there had not been a sufficiently emergency situation that the granting of an abortion on grounds of the “social indication” had been warranted – and not least because the most aggressive interrogator among the judges had been revealed to have taken his own girlfriend to get an abortion in the neighboring, more liberal state of Hessen. The sensational scandal of a double standard aside – and ultimately this judge had had to recuse himself – the Memmingen trial had made starkly, frighteningly clear to women everywhere just how eroded abortion rights had become. Quick entries into the emotional intensities of the Memmingen case are provided by Uta König, “[Paragraph] 218,” Stern 5 (January 26?, 1989), pp. 12-13; Gerhard Mauz, “‘Hätten Sie es nicht in Pflege geben können?,”’ Spiegel, March 13, 1989; “Gnadenlos,” in Die Zeit, March 17, 1989; and Monika Frommel, “Der Kreuzzug von Memmingen,” in Neue Kriminalpolitik (1990). In 1990, already before unification, the Christian Social Union-led Bavarian state government had asked the Constitutional Court for a judicial review of the West German abortion law. After unification and after the Bundestag passed a new law in 1992, against the objections of 248 (in some accounts 249) Christian Democratic and Christian Social Union
parliamentarians, these individuals, together with the Bavarian state government, petitioned the Constitutional Court for a temporary injunction to be issued; the Constitutional Court provided that, and then promulgated its own decision in 1993, relying also on the Bavarian state’s arguments. These among other things revealed a patronizing didactic intention vis à vis the East Germans. If the new version of 218 were to be found to be unproblematic from a constitutional point of view, the Bavarian petition asserted, “then the concept of the trimester solution prevailing since 1972 in the accession region [Beitrittsgebiet, i.e. the territory of the former GDR] would ultimately be affirmed. The legislature would thereby be forfeiting the opportunity to, with its means, foster a lawful consciousness for the worth of unborn life and its constitutional protection in the populace of the new federal states.” The Court decision contains substantial passages from the Bavarian statement: Antrag auf verfassungsrechtliche Prüfung von Vorschriften über das Beratungs- und Indikationsfeststellungsverfahren sowie über Krankenversicherungsleistungen bei Schwangerschaftsabbrüchen aufgrund der allgemeinen Notlagenindikation (2 BvF 2/90). Constitutional Court decision and accompanying commentary, BVerfGE 88, 203 – Schwangerschaftsabbruch II (see esp. pp. 219, 238, and quote at 240), can be found at: http://groups.csail.mit.edu/mac/users/rauch/nvp/roe/bv088203_nonav.html. Further condescending remarks about the East German populace had been put forward during lawyers’ presentations to the Constitutional Court. The jurist Peter Lerche, for instance, noted – as summarized by the Frankfurter Allgemeine Zeitung – that “deep wounds” had been created in “the sense of right and wrong” prevailing in “the new federal states” (i.e. the states of the former GDR) due to the “twenty years there of unconditional acceptance of the trimester regulation.” Quoted in “Das Bundesverfassungsgericht erlässt einstweilige Anordnung gegen die

70 In general the hope was that working with women (through counseling), rather than against them (through punishment), would encourage more women to continue their pregnancies. The Bavarian petition of 1990 had already, in its panoply of arguments for restricting abortions, floated the worry that “improvements in prenatal diagnostics” could eventually make “abortion on purely eugenic grounds become possible,” potentially already “within the first 12 weeks” – such that it would be impossible to know whether “the continuation of the pregnancy” could have been “demanded of the woman.” See BVerfGE 88, 203 – Schwangerschaftsabbruch II, p. 240. But the proposed law of 1992 had still included the idea that an abortion should be permissible in cases in which “in accordance with medical finding there are pressing reasons for assuming that the child would suffer irreparable damage to its health, due to a genetic inheritance or toxic effects during the pregnancy, that weigh so heavy that the continuation of the pregnancy cannot be demanded of the woman” (ibid., p. 228; cf. p. 221). Although including mention of these two positions, more generally the embryopathic indication, pro or con, was not a matter that the Court in 1993 had particularly belabored. The Court’s own stance consisted of the remark that “The untenability of continuing a pregnancy, however, cannot arise from
circumstances which remain within the framework of the normal situation of a pregnancy. On the contrary, there must be burdens which demand such a degree of self-sacrifice that this cannot be expected of the woman. In view of the duty to carry the child to term, it follows that, beside the traditional medical indication, also the criminological and, insofar as the boundaries are drawn sufficiently precisely, the embryopathic indication can exist as exceptions that are in accordance with the constitution; for other situations of emergency this is only the case if the severity of the social or psychological-personal conflict presupposed here is clearly discernible” (ibid., p. 258; cf. two further mentions on pp. 270, 300). Bottom line: At this point the Court is still most worried about reining in the far larger number of “social” cases. Nonetheless, signs of a wider shift in conceptualizations of the embryopathic indication were already evident among jurists in 1993. In the wake of the Court’s decision, conservative legal experts interested in an at once restrictive and pragmatic resolution (pragmatic both because, as also the Court had been aware, “abortion has been and remains a mass phenomenon” and because one would not want to “intensify the resistances, especially in the new federal states” – the latter again a discreetly phrased but pointed gesture to potential unrest in the former East) – were attuned to the idea that it could be important, if the embryopathic indication were to remain, that its inclusion be articulated in such a way that “not the disability of the child as such” would legitimate abortion but only whether, in a given individual case, that disability would truly be too difficult for the woman in question to manage. Anticipated disability alone should no longer be misunderstandable as somehow an acceptable reason to terminate. Rolf Keller, “Das Urteil des Bundesverfassungsgerichts zum Schwangerschaftsabbruch vom 28. Mai 1993 aus strafrechtlicher Sicht: Zur Rolle des Strafrechts im Beratungskonzept,” in Johannes Reiter and Rolf Keller, eds., Paragraph 218, Urteil und Urteilsbildung (Freiburg: Herder, 1993), pp. 195-

Only the Party of Democratic Socialism (the legal successor to the former East German Socialist Unity Party) protested, eloquently, against the abrogation of women’s rights to seek terminations on any grounds, accusing the Constitutional Court of “intolerable paternalism,” and declaring that the Court itself, in its decision of May 1993, had “restricted the fundamental rights of women to the inviolability of their dignity, the free development of their personality, and their freedom of conscience for the full duration of the pregnancy” (pp. 18-19).

On Feb 10, 1995, after the proposed law had been read the first time, the committee was charged to deliberate on it – Hüppe is part of this committee. The others are Maria Eichhorn (CSU, and a member of Donum Vitae), Heinz Lanfermann (FDP), Inge Wettig-Danielmeier (SPD), Rita Griesshaber (B90/Greens), Christina Schenk (PDS, was lesbian, is now Christian
Schenk, a transman). One earlier version of a CDU/CSU proposed law – before the Constitutional Court had gotten involved – had already suggested the possibility of subsuming cases of rape (the criminological or “ethical” indication), of fetal anomaly (termed “child’s indication”), and of a “crisis situation” (Notlage) under the rubric of a “psycho-social” indication which would be handled separately from the maternal health indication. See “Empfehlung und Bericht des Sonderausschusses ‘Schutz des ungeborenen Lebens,’” Deutscher Bundestag, 12. Wahlperiode (June 22, 1992), pp. 93-94, http://dipbt.bundestag.de/doc/btd/12/028/1202875.pdf.

In addition, in a positive development, the counseling component of the law would come to include, in instances of fetal disability, information about “the options of assistance for disabled people and their families which are available, before and after birth,” and the right to access experts on early intervention with disabled children. Interestingly, moreover, the commentary went on to explain who had been most inspirational in the decision causing the embryopathic indication to be “dispensed with”: “Above all the statements of disability organizations had namely shown that such a regulation had led to the misunderstanding that the legitimitation [of a termination in these circumstances] follows from a reduced valuing of the life-rights of a disabled child…. Herewith is made clear that a disability can never lead to a diminution in protection of life.” See “Beschlussempfehlung,” pp. 5-6, 18, 20, 25-26.

As Tichenor succinctly observes: “Green Party and Social Democratic women did not want to be seen as opponents of disability rights” (Religious Crisis, pp. 206-207). As of 2006, officially 3046 of a total number of 119,710 abortions were undertaken under the rubric of the “medical indication.” The majority of these were undertaken on the basis of a diagnosed embryopathic condition. Statistisches Bundesamt 2007, quoted in “Schwangerschaftsabbruch mit embryopathischer Indikation,” Wikipedia, available at:


Notably, in Austria in 2015, it was the Green Party – invoking the UN Convention on the Rights of Persons with Disabilities (even though it does not mention abortion at all) – that urged the Austrian parliament to consider whether a shortened time frame for aborting on grounds of fetal anomaly might be appropriate, and the conservative Austrian People’s Party concurred that it had “long been in favor of removing the eugenic indication,” since the existence of that indication in Austrian law represented a “unequal treatment of disabled people.” See “Spätabtreibungen: Debatte über Fristverkürzung,” Der Standard, February 9, 2015, available at:


Hüppe has among other things argued that the (partial) legalization of pre-implantation diagnostics in Germany is in contradiction to the UN Convention on the Rights of Persons with Disabilities. See “Behindertenbeauftragter kritisiert PID-Regelung,” Stoppt PID website, available at: http://www.stoppt-pid.de/beitraege/behindertenbeauftragter_kritisiert_pid-regelung.