

# #wegmit219a : Governmental Restrictions and the Importance of Online Hashtags in Feminist Movements

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“The personal is political”—this slogan, that became popular by U.S. American feminist movements in the 1960s to highlight the connection between individual experiences and political structures (McCann and Seung-Kyung 191), appears to be gaining momentum again, this time in the context of online movements. With social media widely accessible, the personal becomes not only political but also something to post about, as seen with recent hashtag movements like *#metoo*. A similar feminist protest movement started in Germany in 2017, introducing the hashtag *#wegmit219a* to voice discontent regarding Germany’s Abortion Act. Almost 30 years after Germany’s reunification, the debate regarding the abortion legislation in the German Penal Code thus resurfaces.

Similar to former debates between East and West Germany around 1990 focusing particularly on §219a that prohibits the “promotion” of abortions, therefore e.g. banning any information on websites indicating even the possibility of an abortion, current protests and social media movements also centre on said paragraph and aim at abolishing it

with the help of internet campaigns (“Weg Mit §219a”). This paper will primarily focus on *#wegmit219a* movement and discuss whether its online discourse presents a useful tool to provoke change within the German legal system. Drawing on the origin and the development of the §219a, I argue that the Abortion Act exemplifies Germany’s antiquated stance on womanhood in opposition to Germany’s image as a self-proclaimed progressive and liberal state.

## Historical Background

Since 1871, §218 of the German Penal Code has been regulating the termination of pregnancy, deeming it a criminal act (Schmid). Until 1927, women getting abortions could be imprisoned for at least six months—afterwards, abortions for medical reasons were legally permitted (Bundeszentrale für politische Bildung). During the Nazi regime, the legislation in Germany was tightened drastically; in addition to wanting more *Lebensraum*, one of the fundamental aims of Nazi Germany was the preservation of the “Aryan” race. German women needed to provide children for the sake of the German family and nation, whereas

“non-Aryans” were forcibly sterilized or had to abort (Tuomala 289–305). Under Nazi rule, the original §218 was re-introduced to the German Penal Code, stating that German women getting abortions could be imprisoned for up to two years. In 1934, this law was exacerbated even further: abortion was punished with the death penalty so as not to demolish the “life force” of the German nation (Notz). In 1933, §219a was introduced, which prohibited doctors and institutions to actively “promote” abortions.

After the Nazi regime and during the division of Germany, the amendment of the penal code was repealed through efforts from the occupying nations (Notz). The abortion legislation changed in the two respective states: in West Germany, abortion remained a criminal offence but was allowed in special cases, such as for medical reasons (Fisher 24). East Germany introduced its so-called “Muttropolitik” (“Mother politics”) in 1972, which was “aimed at improving the compatibility of employment and motherhood” (24). It introduced more permissive abortion and contraception laws according to which access to abortions within the first 13 weeks of pregnancy and free contraception was granted (24). It is noteworthy that the socialist government in East Germany opted for a more permissive approach, undoubtedly linking labour force and reproductive freedom with each other, “defining women as both producers and reproducers”

(22). In its neighbouring capitalist state, West Germany, the abortion law remained more restrictive and closer to the former Nazi legislations. Abortion here was defined as “a statement against the West German family model, and thus, in a way, precluded one from taking up membership in the national community” (Frankfurth 58). Bearing children was once again synonymous with providing for the nation.

The reunification process eventually also addressed the demand for a united abortion legislation, quickly leading to a heated debate between West and East German legislators and activists. The two different laws were initially left in place until the parliament passed a new abortion law or, rather, an amended version of West Germany’s legislation, permitting abortions after an obligatory pro-life counselling in the first twelve weeks (Wuerth 601–02; Frankfurth 61). This decision of simply overwriting East German legislations with West German laws illustrates the reunification process in its entirety: West Germany as the “winner of the global contestation of liberal capitalism against Soviet socialism... shape[d] the discourse of reunification and transition in Germany... [and] gave expression to the hierarchical relationship between East and West” (Frankfurth 52). The inclusion of the mandatory pro-life counselling in particular appears like a very stealthy way of incorporating West Germany’s original

stance on abortion, in which “the embryo became... a future member of the national community” (59). Hence, the dominant discourse centred around the protection of the embryo, ergo putting the preservation of the German nuclear family and the continuity of the nation before women’s welfare (60). West Germany was understood as the epitome of a modern European state, “defin[ing] Germanness in terms of a purely West German understanding... [leaving] the citizens of East Germany... to abandon their political and social past and conform entirely to Western norms” (Fisher 22).

“§219a still defines abortions as (non-punishable) criminal acts nowadays and thus forbids health insurances to pay for the service” (Ferree 313). Even though the state supposedly supports pregnant women this way (313), the wording of the paragraph suggests otherwise (“§219a Werbung Für Den Abbruch Der Schwangerschaft”). The Abortion Act makes abortions more accessible for women from former West Germany, but still poses several obstacles for women to overcome in general: financial demands, a mandatory pro-life oriented counselling session and the need to find a doctor or clinic where abortions are being carried out. The mandatory counselling session illustrates the state’s reluctance to grant women autonomy. Furthermore, the necessity to attend a counselling session seems to suggest that women from former East Germany

acted immorally when getting abortions without having to seek counselling (Frankfurth 61).

According to Yvonne Frankfurth, it is evident that “progressiveness was being defined in terms of the West German ideal of the breadwinner-housewife structure, in which women featured primarily as social and biological reproducers” (62). This highly gendered model that dominated the abortion discourse and gender politics in the 1990s will provide the framework for a comparison with the current debate surrounding §219a. Since the Abortion Act has not been modified yet again, it seems that the notion of women’s main role as biological reproducers, even in a time where gender equality is being promoted in politics to a certain extent (e.g. with the women’s quota), remains the predominant discourse today.

### **The Pro-Choice Movement**

Debates surrounding the Abortion Act have been numerous since its introduction; as early as in 1905, the “Alliance for Protection of Mothers and Sexual Reforms” demanded free access to contraceptives, more information and education services as well the abolishment of §218 (Notz). New feminist movements were found in West Germany after WWII and in a united Germany after the reunification process, demanding similar if not equal reforms with the slogan “My

belly belongs to me” (Schmid). Similar to prior protest movements, the current social media outcry and protest movement also demands the total abolishment of §218, but focuses primarily on the repeal of §219a.

The protest started after media reports revealed the indictment of a doctor from Giessen, Hänel. She was sentenced to a 6,000 Euro fine for publicly promoting abortions on her website (Hild), meaning that Hänel openly used the term “Schwangerschaftsabbruch” (“Abortion”) on her website and allowed patients to request more information. It is debatable whether this can already be perceived as a promotion of abortions and not simply as providing information about the services being offered at her office. Hänel’s very public case caused the German *Bündnis für Sexuelle Selbstbestimmung* (“Alliance for Sexual Self-Determination”) to start an online campaign in support of Hänel and other doctors in similar positions. The alliance argues that sexual self-determination is a human right and thus demands “the immediate repeal of §219a of the German [Penal] Code and free access to information about abortion” (“Weg mit §219a”). Before Hänel’s sentence, the alliance published Hänel’s petition on *chance.org* and triggered a social media storm by introducing the internet campaign *Weg mit §219a (Repeal §219a)* at the beginning of 2018. At the heart of the campaign was a call for photos, mainly portraits with a tape labelled “§219a”

covering the (photographed) person’s mouth, shared on all social media platforms using the hashtag *#wegmit219a*. After the initial photo campaign, the hashtag stuck and was then used for problematizing the debate surrounding the paragraph and abortion rights online. As of June 2019, the hashtag has been used 2,808 times on Instagram alone (“#wegmit219a”).

However, the movement did not remain an online phenomenon, but numerous magazines and newspapers (e.g. *Spiegel* and *Zeit*) kept track of the story and the campaign. In addition to this print coverage, the *Bündnis für Sexuelle Selbstbestimmung* organized two offline campaign days in Berlin in 2018 and 2019—the second one sparking nationwide protests in 28 cities all over Germany, challenging the government’s so-called compromise and demanding an immediate repeal of the paragraph. This transition from a movement confined to the capital of Germany to a nation-wide movement illustrates the growing significance of the movement’s cause within the public sphere. Moreover, it demonstrates how the movement cannot simply be described as an online-hash-tag movement. It seems to be relevant in both online and offline spaces, indeed, its online presence helps spreading the word, documents new developments and achievements, and brings people together for protests that take place outside of the online world. Hence, it appears as if the introduction of the hash-

tag and internet campaign as a starting point of the movement helped further the cause significantly, both by using an important case that was already covered by news media as a stepping stone to promote its interests, and in bringing people to the streets.

### **Governmental Restriction and Censorship**

The government's persistence to keep §219a in the German Penal Code can be viewed critically in several ways. Banning the promotion of abortions suggests that abortions might be promoted by doctors in the first place — even though doctors are generally not allowed to promote any sort of service for their own financial gain (Bundesärztekammer)—and thus creates an almost apocalyptic image of a drastically increasing abortion rate after the possible lift of the ban. The term promotion itself describes an “activity that supports or encourages a cause, venture, or aim [and/or] the publicizing of a product, organization, or venture so as to increase sales or public awareness” (“Promotion”). From an economic perspective, this suggests that doctors would actively promote their abortion services to make more profit. It further insinuates that a heightened public awareness and unrestricted, easier access to information would automatically bias women towards a pro-abortion decision and therefore cause an

increase in abortions. This scenario illustrates a rather antiquated view of women, removes their agency and undermines their autonomy. It implies that choices need to be made *for* women instead of *by* them.

Similarly, the term promotion evokes associations with advertisements promoting e.g. fashion trends or holiday vacations. Equating these aspects turns a medical procedure like an abortion into a mere luxury rather than a right for all women, regardless of their economic status, and furthermore disregards the fact that abortions can constitute a necessity for women. Frankfurth highlights this problematic view in the following excerpt:

Placing abortion in this. . . framework seems to suggest that the penal code serves as a national anchor of moral ideas and that, consequently, it is a woman's moral responsibility to cherish the advent of a pregnancy, regardless of whether it is (un)wanted. Moreover, [this idea] acutely fails to acknowledge that abortion is not *per se* a statement against motherhood. Rather, such a view disregards the multitude of reasons that may count towards a woman's decision for choosing to have an abortion. It further ignores that some women wanting an abortion may already be mothers, who decide against having *another* child. (Frankfurth 61)

The fact that the paragraph remains a relic from Nazi Germany seems even more problematic. Other legislations from this time have been nullified due to

their segregating, racist notions and oppressive nature (Beck 25–100). It can be argued that the Abortion Act does oppress women since it restricts their free choice in regard to this particular decision by imposing obstacles on the possibility of an abortion. Nonetheless, the German government has only recently, in February, 2019 decided to merely reform §219a in reply to the protest movement. The reform consists of what both the federal government and German media outlets have titled “a compromise” (see e.g. “Paragraf 219a”). The paragraph itself remains intact and within the German Penal Code. However, doctors are now allowed to publicly inform their patients about their abortion services, e.g. by stating it on their websites. They are permitted to refer them to other authorities for further information on the topic, e.g. by linking specific websites authorized by the state (“Paragraf 219a”). The government also decided to provide young women up to the age of 22 years with the birth control pill for free (the expenses must be paid by their respective health insurance). Additionally, the German Medical Association is instructed to maintain a register with doctors, clinics etc. carrying out abortions (“Paragraf 219a”). The register is supposed to contain information regarding the applied methods and is scheduled to be updated monthly and published online by the Federal Agency for Civic Education.

Yet, this compromise still does not grant women unlimited and quick access to information. Furthermore, doctors, supposed authorities in their fields, are still not allowed to freely provide more detailed information about their services—the state apparatus decides which information to provide, and where to make it accessible. This approach of withholding information or regulating the distribution of information can be interpreted as censorship. Even though censorship is traditionally thought of as “a device for protecting official beliefs and ideologies and for suppressing those that are opposed to them,” it could also “be used to withhold facts or to prevent their dissemination” (Matthews 21). It is possible to argue that the government *does* provide the necessary information. However, if access to information was the main reason for the reform to be introduced, it seems inconsistent that doctors are still not allowed to provide the relevant information on their own websites—a step that would make the relevant information much more easily accessible to women. Instead, it seems that the state wants to maintain its control and power over the information on abortions. This can be interpreted not only as the state exerting power over women but also as spreading and legitimizing the state’s dominant ideology on the matter. The personal remains political since reproduction politics are still very much used to place women within societal power structures. In fact, the so-called

compromise that was reached politically highlights how non-violent protests and hashtag movements are only able to accomplish small reforms. This reform seems like a silencing of the protestors—but can or should this tiny improvement in the legislation stop them from demanding more?

### **The Personal Remains Political**

The analysis of both historical and recent abortion debates in Germany highlights how an “ultra-saturated media and communication environment provides ample opportunities for activists to resist, to exert their agency, to self-represent themselves and to defy the structural constraints” (Cammaerts 120). The protest movement led by the *Bündnis für Sexuelle Selbstbestimmung* became publicly known in a short time due to the introduction of an online hashtag. As the internet campaign shows, the statement “the personal is political” is still valid today. Indeed, nowadays it seems to be a successful strategy to become visible and share one’s own stories online in order to form a larger movement.

In this light, I argue that the current debate in Germany can be described as a resurfacing discourse from the 1990s. To be precise, the recent demand for a reform of the Abortion Act appears to be similar to the debates between the two former states of Germany: the

hashtag movement’s demands and East Germany’s more liberal abortion law on one side and its opponents and West Germany’s more restrictive approach on the other side. It can be said that feminist movements’ ongoing quest, either for the complete abolishment of the Abortion Act or the repeal of the “promotion ban,” has not been met. Instead, the preservation of Christian values seems to dominate the state’s decision in keeping the paragraph. This becomes highly transparent when analysing arguments from political parties and organizations (e.g. the Catholic Church and the March for Life) supporting (the exacerbation of) §219a. Thus, the paragraph is used as a tool to undermine women’s bodily self-determination and autonomy, which ultimately leads to the solidification of patriarchal structures in society.

It is not possible to unpack and discuss all intricacies of the abortion rights discourse in Germany in the scope of one paper. Further political repercussions and consequences need to be analysed in the frame of the online and offline protest movement “Weg mit §219a” to determine the success of a protest movement that acts on these two scales. It is also necessary for this analysis to include other legislations concerning womanhood, such as childcare and the health care system, in order to create a holistic understanding of women’s rights in society

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