The Personification of Inequality: Challenges to Gendered Power Relations in the Nineteenth Century Divorce Court

When Sophie von Hatzfeldt-Trachenberg married her cousin, Edmund von Hatzfeldt-Wildenburg on 9 August 1822 she could have had little idea of her fate. Sophie was just 17 years old, the youngest of three sisters, and the victim of an arranged marriage designed to mend the rifts between the two branches of the aristocratic Hatzfeldt family and to produce a male heir. Edmund was 24 — older and more experienced than his wife — and for him the alliance was nothing more than a marriage of convenience, a dynastic convenience which gave him a veneer of respectability. His choice of the youngest sister was a calculated move designed to permit him maximum freedom to continue a long-standing relationship with another woman and for some 25 years he succeeded in this goal, pursuing his own interests and countless liaisons at the expense of the happiness and well-being of his wife who found herself trapped in a marriage conceived in the ancien regime. However, Edmund made a serious miscalculation when he filed a divorce petition against Sophie in 1847. The divorce contest was the making of this strong-willed, principled woman, once described by a journalist as »eine Person mit Haaren auf den Zähnen«. Although portrayed as the classic victim of her Stand she transformed herself into a courageous and principled woman whose fight for justice through the divorce court came to represent more than merely the revenge of a spurned and mistreated wife. Sophie, dubbed the »red countess« on account of her associations with well-known political radicals, came to symbolise the plight of all women trapped in a loveless, disfunctional and old-fashioned marriage. Despite, and also because of, her aristocratic lineage, Sophie von Hatzfeldt’s case was seen to personify, in the words of her most influential supporter Ferdinand Lassalle, »alle Ungerechtigkeiten der alten Welt, alle Missbräuche der Macht, der Gewalt und des Reichtums gegen den Schwachen, alle Unterdrückungen unserer Gesellschaftsordnung«. The Hatzfeldt affair, then, was clearly not just any divorce case. Inevitably, owing to the social class of the litigants it was a social and political cause célèbre conducted against a background of political upheaval in Düsseldorf and the Rhineland. A private conflict between individuals concerned with the minutiae of everyday life in the Hatzfeldt household was transformed into a public affair; the inequalities of gender and power within the marriage reflected those characterising society as a whole in the turbulent 1840s.

The breakdown of a marriage and subsequent formal separation (Trennung von Tisch und Bett) or divorce was not an uncommon occurrence in early nineteenth-century Germany where divorce law was comparatively liberal compared with elsewhere in Europe. In Prussia in the 1840s there were, on average, around 4,000 divorces every year; by 1871 there were around 70,000 divorces in the German Reich as a whole. However, in contrast with most of Prussia where the Allgemeines Landrecht recognised eleven pos-

1 Aufsässige Gräfin, in: Der Spiegel 30, 1976, Nr. 35, S.130 (»a person with a sharp tongue«).
2 Cited in Helmut Hirsch, Sophie von Hatzfeldt, Düsseldorf 1981, S. 27 (»all the inequalities of the ancien regime, all the abuses of power, of authority and of wealth against the weak, all the oppression of our social order«).
sible grounds for divorce, in the Prussian Rheinprovinz conditions were more restrictive. Indeed, between 1839 and 1841 just 142 divorce proceedings were processed in this region. Under the Napoleonic civil code which remained in force here until 1900, couples could divorce citing one of just four grounds: adultery, mistreatment, imprisonment of one party or by mutual agreement, although few were realistically able to utilise the latter so restrictive were its terms. Yet, despite the constraints of the civil code it was widely used by members of the lower classes and bourgeois couples who particularly utilised the mutual agreement clause, probably in an attempt to avoid the publicity a contested divorce battle would attract. On the other hand, a public divorce, and particularly such a vindictive and confrontational affair, involving members of the lesser aristocracy, was rare. Nevertheless, despite its exceptional status, the Hatzfeldt divorce encapsulates the tensions within German society and politics in the early decades of the nineteenth century. Not only does the Hatzfeldt's marital dispute cast light on the shifting sense of what constituted an acceptable marriage relationship in this troubled period, but it also provides some insight into the changing balance of the gendered distribution of power in a society experiencing profound economic and political upheaval.

Historians of gender in Germany and elsewhere have made explicit the connection between relations between the sexes and broader social relations. Gender relations, according to Merry Wiesner, »provided a model for all dichotomised relations which involved authority and subordination«. Marriage was at the centre of a web of sexual, social and economic relations and thus changes within marriage must reflect changes occurring in society as a whole. It is becoming increasingly clear that the decades traversing the late eighteenth and early nineteenth centuries were a period when both the concept of marriage and the function of the family were being questioned, particularly amongst the bourgeoisie but also more widely. Close studies of bourgeois relationships suggest that the theoretical notion of marriage based upon a polarisation of Geschlechtscharaktere was far from being a universal reality, and indeed was probably the exception by the 1840s. We only have to observe the intellectual and literary debate on the nature of marriage to conclude that changes were well underway. From the Romantic women writers such as Caroline Schelling and Bettina von Armin to the radical writers of the Vormärz including Fanny Lewald and Louise Aston, the problem of marriage was an ever present theme. The rejection of the arranged marriage and an advocacy of the Liebesbegehren was a key demand of Catholic and Protestant liberal dissenters like Louise Dittmar whose astute commentary upon the subordination of the wife within marriage formed a basis for later demands for equality: »Er [der Ehemann – L.A.] ist der politische, moralische und ökonomische Repräsentant ihrer politischen, moralischen und

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4 Ebd., S. 35.
5 See the files in Hauptstaatsarchiv Düsseldorf (HStAD) (Zweigarchiv Schloss Kalkum), Landgericht Düsseldorf, Rep. 4.
8 Louise Dittmar, Das Wesen der Ehe nebst einigen Aufsätzen über die soziale Reform der Frauen, Leipzig 1849.
ökonomischen Stellung. [...] [s]obald das demokratische Prinzip den Sieg errungen hat, das Wesen der Ehe eine vollständige Umwandlung erhält.«

Such a wholesale revolution in marriage relations as envisaged by Dittmar was perhaps unlikely but bourgeois couples undoubtedly fashioned relationships no longer based solely upon a rigid hierarchy, separation of spheres and the subordination of the wife to her husband but upon emotional fulfillment, mutual understanding and comradeship which accepted the woman’s independence of mind; a form of companionship which although not entirely undermining hierarchy and subordination did suggest a new kind of intimacy based on a working relationship. Accompanying these changes was the emergence of closer relationships between parents and their children, what Rebekka Habermas has termed »disinterested parenting«. Couples’ discussion of children’s education and upbringing not only refugured the parent-child relationship but also forged a »parental bond« between the mother and father. The decline of the authoritarian husband appears to have been followed by the disappearance of the authoritarian and distant father to be replaced by a more engaged and indulgent figure.

The shift towards a more companionate style of marriage within a patriarchal legal and economic framework was not confined to the bourgeoisie. Economic change, especially in rural areas, presaged a gradual reorientation in marriage relationships as women in particular reacted to changing economic circumstances which signalled a rise in women’s productive power and a concomitant decline in that of men’s. David Sabean has noticed a rise in marital tensions in rural Württemburg, specifically between 1805 and 1840 coinciding with the intensification of agriculture and the resulting changes in the sexual division of labour. In Göppingen during the period 1740 to 1840, Sylvia Möhle observes that structural changes in artisanal production in particular, incorporating a decline in work opportunities for (male) artisans accompanied by the expansion of work in domestic service for women, »stellten damit die innereheliche Hierarchie insgesamt in Frage«. As husbands sought to hold on to their increasingly tenuous economic power and attempted to bolster their waning authority by the use of violence in words and deeds, and by the violation of the female sphere by interfering in the run-

9 *Dies.*. Das Wesen der Ehe, reprinted in: *Renate Möhrmann* (Hrsg.), Frauenemanzipation im deutschen Vormärz. Texte und Dokumente, Stuttgart 1978, S. 126–149, hier: S. 132 f. (*He* [the husband – L.A.] is the political, moral and economic representative of her political, moral and economic position. [...] [a]s soon as the democratic principle is victorious, the essence of marriage is totally transformed.«


12 See also: *Roche*.


ning of the household for instance, women signalled their unwillingness to tolerate such conditions and used the divorce court to articulate their beliefs about the marriage relationship. Women demanded a role within marriage that fairly reflected their position within the community. Within this context, then, the marriage and divorce of Sophie and Edmund Hatzfeldt might be better understood as not just a mirror image of the political power struggle between the old regime and the new, between the patriarchal aristocrats and the liberal revolutionaries, but as a contest between an old style of marital relations that were no longer relevant or acceptable or even workable to the majority of people and a new style which was slowly gaining acceptance, based not necessarily on gender equality but on mutual respect and accommodation. In the turbulent decade of the 1840s the Hatzfeldt case encapsulated the dichotomy between the old regime and the anticipated new regime, between the old hierarchical model of marriage and what came to be called the companionate style.

Sophie von Hatzfeldt was a remarkable woman whose journey from unwilling bride to active supporter of political radicalism has been well documented although perhaps greater attention has been paid to her political activities, especially her correspondence with Karl Marx, than has been given to her personal life. And yet her marriage—her relationship with her husband, their children and the Hatzfeldt family—is central to an understanding of how gender inequalities were manifested within the aristocratic marriage. Sophie’s misfortune in marrying Edmund was revealed as soon as the couple returned to the family home, the Schloss Kalkum just outside Düsseldorf, the day after the wedding celebrations. According to Sophie’s statement, Edmund immediately made it clear to his young wife that »er habe sie nicht geheiratet um sich um sie zu bekümmern; er liebe bereits die Gräfin Nesselrode, sie, Sophie, möge ihrer Wege gehen«. Thereafter, it was alleged, Sophie was to endure years of neglect and mistreatment. Although the couple had three children—Alfred, Melanie and Paul—they separated in 1833 and thereafter Sophie effectively became an itinerant; unable to live in the family home she spent time in Berlin, Dresden, Vienna and Italy, all the while attempting to keep her youngest son Paul from his father’s clutches. In 1847, after 25 years of marriage and despite several futile attempts at reconciliation, Edmund filed for a divorce. Sophie chose to contest her husband’s preposterous allegations. At stake was her honour, her property, and the custody of the children. To have submitted quietly to Edmund’s charges would have meant tacitly accepting his version of the marriage story and losing all that was dear to her: her independence and her children. Thus Sophie became embroiled in an acrimonious and vindictive process which lasted seven years in total. At the age of 46 Sophie succeeded in countering her husband’s claims. Finally then, in 1851, having endured 29 years of marriage she eventually achieved her freedom and three years later a fair financial settlement also gave her the means to pursue her independent political interests. Yet her victory was achieved at great cost. Not only had

18 HStAD (Zweigarchiv Schloß Kalkum), Landgericht Düsseldorf, Rep. 4/260, Ehescheidungsklage Sophie von Hatzfeldt, S. 2 (she had not married her in order to trouble himself with her; he already loved the countess Nesselrode, she Sophie, could do what she wished).
she endured almost three decades of marital misery, she also lost the support of her family, she lost custody of her children and eventually even her most loyal supporter, her youngest son Paul, deserted her as his political sympathies shifted away from the Rhineland radicals to the right. In challenging her husband’s divorce petition and thereby the entire Hatzfeldt family, in refusing to suffer in silence and in particular by enlisting the help of a political radical, Ferdinand Lassalle, Sophie von Hatzfeldt was questioning not only the blatant gender inequalities inherent in the aristocratic marriage settlement but also those present in the marriages of ordinary women throughout the German lands. Her victory in court, apparently against all the odds, supports Dirk Blasis’ assertion that ![die Gerichtshandlung zeigte die Frau in einer starken Rechtsposition, liess aber auch die ganze Schwäche ihrer Sozialposition innerhalb der Ehe deutlich werden.](20)

The Hatzfeldt affair would, in all probability, have remained a private quarrel between two members of the aristocracy and their families but for the politicisation of the case by the young Ferdinand Lassalle, later founder of the German Social Democratic movement, but at that time a young philosophy graduate with no legal background who recognised how he could use the case as a useful vehicle for his own ideology. A case of severe marital breakdown was henceforth transformed into a political affair, pitching the reactionary and feudal values and attitudes of the aristocracy and the old regime represented by Edmund, against the rights of the oppressed, represented by Sophie. «Ich sagte mir,» exhorted Lassalle, «dass die Gräfin ein Opfer ihres Standes sei, ich sagte mir, dass man nur in der übermütigen Stellung eines Fürsten und Millionärs solche Unthaten, solche Beleidigungen der Gesellschaft in ihrer sittlichen Tiefe ohne Scheu wage und wagen dürfe.» ![He continued:](21)

»Ich sah den ganzen Egoismus und die ganze Feigheit der aristokratischen Welt [...] Ich sah wohl, dass [...] die Ursache des Unglücks der Gräfin nur in dem Adel ihrer Seele lag, die sich niemals dazu hatte herabwürdigen lassen, sich vor dem tyrannischen Geist ihres Gatten zu erniedrigen oder seinen nichtswürdigen Launen zu schmeicheln.»![22]

Sophie, by sympathising with the revolutionary cause in the late 1840s and by allowing her case to be defended by Lassalle, contributed to the politicisation of the divorce process. Despite her own aristocratic background, and no doubt as a direct result of her own personal experience at the hands of her husband, she explicitly identified with the oppressed in society, writing to her daughter Melanie in 1851 at the culmination of the court case:

»Ich habe es nie gelegnet und werde es nie leugnen, dass mein ganzes Herz sich empört, wenn ich die Not, das Elend, die Unterdrückung der unteren Klassen, den Uebermut, die Hartherzigigkeit, die Genußsucht der Reichen sehe, die sich alles ungefähr derlauben. Ich habe immer so gedacht und immer auch so gehandelt und bereue es auch jetzt nicht; wenn ich auch viel und hart verfolgt bin, so folgen mir auch viele Segenswünsche.»![23]

19 Paul eventually became a diplomat and ambassador to London under Bismarck’s government.
20 *Blasier*, S. 124 («The court process showed the woman in a strong legal position, but also highlighted the total weakness of her social position within marriage.»).
21 Ferdinand Lassalle cited in *Kling-Mathey*, S. 40 («I said to myself that the countess was a victim of her rank [Stand], that only someone with the insolence of a prince and millionaire would dare and would be permitted to commit such outrages, such affronts without fear.»).
22 International Institute for Social History (IISH), Amsterdam, ADAV, Hatzfeldt Inventory, 300: Auszüge aus der Kassetten-Rede Ferdinand Lassalles, 1848 («I saw the total egoism and the complete cowardice of the aristocratic world. [...] I saw, to be sure, that [...] the causes of the countess’s unhappiness lay in the nobility of her soul which at no time allowed itself to be degraded, to be humiliated by the tyrannical spirit of her spouse to flatter his contemptible moods.»).
23 Sophie von Hatzfeldt to her daughter Melanie, 10. 8. 1851, in: *Gerhard Ebel* (Hrsg., unter Mitarbeit v. Michael Behmen), Botschafter Paul Graf von Hatzfeldt. Nachgelassene Papiere 1838–1901,
Although the case in itself was not essentially political – the grounds cited by Edmund were adultery and excess, mistreatment and gross defamation resembling at heart hundreds of divorce cases heard in the courts every year – Sophie’s defence of her position had been interpreted by Lassalle and the people as an insurrection against oppression and, in this sense, although rarely stated, the defining issue was not only class oppression but more acutely, gender oppression and inequality. The resulting battle was subsequently fought over a number of issues which, although lent a particular hue by the social status of the litigants, were essentially gendered issues with a broad resonance: marital fidelity and adultery, motherhood and parental rights, power relations within the household, the ownership and division of property, and honour and reputation. These issues of contestation commonly appeared in the divorce petitions presented by men and women of the middle and more commonly the lower classes in civil courts throughout Germany. The issues fought so persistently by Sophie von Hatzfeldt would have been recognised by countless women who had similarly contested unequal power relations and marital expectations within their own marriages, many of whom relied upon female networks for moral and material support. Thus, in divorce and separation courts up and down the country a view of what constituted a viable and respectable marital partnership was being articulated, mainly by women who rejected their husband’s indiscriminate use of physical and verbal power or their violation of marital expectations of chastity and economic reciprocity.

Throughout the nineteenth century women showed no reluctance to take their private affairs into the public realm of the divorce court. Women were consistently the majority of complainants in divorce cases and were not willing to allow husbands to make accusations without foundation. Thus we frequently hear the woman’s voice in the divorce court, although of course it is generally mediated through the language of the law and is heard within a framework which emphasised the different characters of the sexes and the different duties and responsibilities expected of men and women. In order to be heard and believed, therefore, men and women utilised prevailing notions of what constituted proper male and female roles and behaviour. The legal process, then, was characterised by a tension between the legal framework resting upon stereotypical gender difference and contested notions of what constituted acceptable behaviour for a spouse. In challenging her husband’s divorce petition instead of submitting silently to his legal claims – >25 Jahre lang habe ich geschwiegen – Sophie von Hatzfeldt immediately found herself in the midst of this tension between expectations of the submissive feminine role and the need to publicly rebut the allegations made against her in order to regain her reputation as a good wife and mother. In short, if she wished to retain her reputation and in turn maintain contact with her children she had to speak out.

Boppard 1976, S. 114 (»I have never denied and will never deny that my whole heart boils with indignation when I see the distress, the misery, the oppression of the lower classes, [and] the insolence, the hard heartedness, the pleasure-seeking of the rich who are allowed to go unpunished. I have always thought that and have always acted like that and I don’t regret it; although I am persecuted long and hard, I have also received many blessings.«).

24 Hirsch, S. 33.
26 See especially Abrams, Compassionship.
28 HStAD (Zweigarchiv Schloß Kalkum), Landgericht Düsseldorf, Rep 4/260, Antrag für den Grafen Edmund von Hatzfeldt, 27. 11. 1848 (»I have kept silent for 25 years«).
Sophie's willingness to reveal in public her version of events in contesting her husband's divorce petition, against the advice of her family who tried in vain to prevent a scandal, brought forth accusations of wilfulness and independence not expected in an aristocratic wife. By not submitting to the will of her husband she was seen as an unruly woman who could not be controlled by men. Edmund, in his petition, described his wife as "eitel, leidenschaftlich, disputier- und zanksüchtig, heftig zum Excess, herrsch- und genussüchtig ohne Maass". Her brother called her "eigensinnig wie immer", following his unsuccessful attempts to reason with her to reconcile herself to her marriage. Moreover, when she refused to adopt a more conciliatory attitude she was described as being close to madness: "Sie hat den Kopf ganz verloren." In 1832, Sophie was forced to sign a reconciliation agreement which might be interpreted as an attempt to tame her "unruly" nature. In addition to restricting her movements and contact with others she was entreated to restrain "ihren Widerspruchsgeist" and to observe suitable and respectful behaviour towards Edward's mother and grandmother. Later, in her own words, Sophie recalled she had to promise "nie meinem Gemahle widerstreitende An- sichten, besonders nie liberale Gesinnungen zu aussern!" Sophie was well aware that she was stepping over the boundaries of appropriate behaviour, not just as a woman but for a member of the aristocracy too. As she told her son Paul: "Du siehst die Ge- schichte der letzten Jahre als einen wahnsinnigen Kampfversuch einer irregeleiteten Frau an, anstatt das klare Recht, die tiefe Notwendigkeit anzuerkennen, das höhere Prinzip, nach dem ich nicht anders handeln konnte." But she was unrepentant: "Ich durfte nicht freiwillig, um einen guten Frieden zu erkaufen, mich als unwürdige Mutter brandmar- kken lassen." But despite being painted by others as an irrational, even dangerous woman, Sophie von Hatzfeldt did not resort to melodrama to win her case. Unlike other women who played upon the stereotype of the irrational, emotional female in court in order to appeal to the prejudices of the judge in order to receive a more sympathetic hearing, Sophie von Hatzfeldt could not resort to these tactics in view of the high stakes - her children and her property. Rather, the strategy adopted by herself, guided by Lassalle, was a careful balancing act. While carefully refuting her husband’s outrageous allegations she had to remain within the parameters expected of a dutiful wife and mother.

The case was exceptional because of the social class of the litigants and in terms of the nature and extent of the allegations against Sophie – Edmund’s petition ran to more than 20 pages and contained 84 counts against his wife, her response exceeded 100 pages –;

30 Ebd., S. 115 ("headstrong as ever").
31 Ebd., S. 116 ("She has totally lost her head.").
32 HStAD (Zweigarchiv Kalkum), Landgericht Düsseldorf, Rep 4/260, Ehescheidungsklage des Grafen Hatzfeldt wider seine Ehelittin, 1847–53, 27. 11. 1848 ("her contradictory nature").
33 Ebd., Denkschrift eingereicht bei dem Landgerichte zu Düsseldorf, 1848 (no precise date) ("never to utter views that were antagonistic to that of my spouse, especially liberal opinions").
34 Sophie von Hatzfeldt to her son Paul, 12. 9. 1850, reprinted in: Ebel, S. 109 ("You look upon the history of the past years as a crazy campaign of a woman who has been led astray, instead of recognizing the clear right, the deep necessity, the higher principle, that made it impossible for me to act in a different way."") could not, of my own free will, allow myself to be denounced as an unworthy mother, in order to purchase a righteous peace.
the number of witnesses called – no fewer than 90 were prepared to speak for Edmund while Sophie enlisted more than 350 to support her case –; the degree of public interest, and the intervention of the Prussian king. In other crucial respects though, the actual substance of the divorce case was remarkable only for Edmund’s incredible, indeed preposterous, allegations against his wife and the vindictiveness of the proceedings although as Lawrence Stone points out, stories containing evidence of ruthless and mercenary attitudes towards relationships were far from uncommon amongst the English upper classes in the seventeenth and eighteenth centuries.36 Otherwise, the issues over which the couple fought bore a striking resemblance to the points of contention discussed day in and day out by countless men and women in separation and divorce courts throughout the German states.

In nineteenth-century Germany the divorce court was, perversely perhaps, used as an arena for the restoration of order. A disorderly marriage, whether it was adulterous, violent or merely disfunctional, represented a danger to the social fabric, a social breakdown in microcosm whereas a divorced couple were free to remarry and procreate. For conservatives, as long as divorce was permitted it provided an opportunity for the law and the state to reinforce an ideal model of »proper« social relations. The protagonists and their counsel were obliged to present their conflict in court within a framework defined by stereotypical gender roles, indeed by those very stereotypical Geschlechtscharaktere which seemed increasingly inappropriate to the bourgeoisie. Those who conformed to this model were rewarded, those who deviated were punished. The court then, became the last line of defence for the state in its attempt to reinforce masculine and feminine roles, particularly at a time of economic and political instability.37

For Edmund there was no dissonance between the image he presented in court and his actions in everyday life. Both in court and in reality Edmund did his best to conform to the image of the authoritarian husband. He was not alone. Lawrence Stone has observed in respect of the English gentry class that the »most striking feature of married life in [the] eighteenth century [...] was the theoretical, legal and practical subordination of wives to their husbands, epitomised in the concept of patriarchy«. He continues: »It was a domination mitigated only by the skillful resistance of many wives, and the compassion and goodwill of many husbands.«38 That Edmund acted, throughout his marriage, in a way to maintain that patriarchal authority can hardly be disputed, whether we accept his or his wife’s version of events. There is no doubt that Edmund was a cruel and vindictive man who never had any intention of fulfilling his responsibilities towards the marriage. Indeed, it is difficult to find any redeeming feature in his personality or his actions. He treated his wife and those who served in his household with undisguised contempt and although he appears not to have physically mistreated Sophie, her defence was able to compile sufficient evidence to support the claim that she had experienced »die schwersten Beleidigungen, die groβte Vernachlässigung, die grausamste systematische Misshandlung und Bedrückung, eines berechneten Vernichtungssystems ihrer äussern und moralischen Existenz«.39 His behaviour towards his wife was commonly known to be disrespectful and offensive. Allegedly, for the duration of the 11 years before their separation in 1833, »[habe] der Graf während all dieser Zeit nie

37 See Trepp, Männlichkeit.
38 Stone, S. 48.
39 HStAD (Zweigarchiv Schloß Kalkum), Landgericht Düsseldorf, Rep. 4/260, Sophie von Hatzfeldt, Scheidungsklage, S. 1 (the most grievous defamations, gross neglect, the most cruel and systematic mistreatment and oppression, a calculated system of destruction of her outward and moral existence).
auch nur einziges Mal ein freundliches Wort zu der Gräfin gesprochen [...]. Er habe nie anders als in der barscheste, grössten Weise auch über die gleichgültigen Dinge gesprochen, sie ohne Unterlass in gegenwart der Domestiken auf das roheste wie einen Dienstboten angefahren und angeschubert.«

According to Sophie, just days after the marriage ceremony, »er eröffnete mir [...] dass er jene Dame [die Gräfin Nesselrode] liebe und ich mich ihnen Anordnungen zu fügen habe wie den seinigen. So war der erste Platz des Hauses bereits besetzt, den 2 und 3 nahmen eine alte Grossmutter und Tante ein, welche die Wirtschaft, innere Verwaltung als ihr Praeogativ betrachteten, ich selbst nahm [...] eine Stellung ein, lange noch nicht so günstig als die einer respektierten Magd.«

Not only was Sophie granted none of the respect due the wife of a lesser aristocrat, she was forced to endure Edmund's blatant adulterous behaviour once the couple moved to Kalkum:

»Er liess sie unmittelbar nach der Hochzeit Tag und Nacht allein zu sitzen, allein zu Mittag speisen, war fast nie zu Haus, sondern ging in Düsseldorf seinem Verhältniss mit Nesselrode nach. [...] Als die Gräfin Hatzfeld zu Calcum Tags nach ihrer Heirat ankam, fand sie daselbst bereits die Gräfin Nesselrode mit ihrem Kind etabliert; sie blieb daselbst einige Wochen. Die Nesselrode schaltete und waltete als Herrin in dem Hatzfeldschen Hause; die junge Gräfin musste ihr, wollte sie sich nicht arge Zornsaußrüche ihres Gatten zuziehen, durchaus unberühmig sein und oft Frechheiten von ihr erdulden.«

Such treatment would not have been acceptable to any woman of any social class. Furthermore, in addition to his constant and frequent infidelities, it was alleged that Edmund regularly contracted venereal disease, »so regelmässig wie der Baum jedes Jahr einen Ring ansetzt«.

Thus in Edmund we see an extreme example of the husband’s assertion of his right to Herrschaft within the household. In Edmund’s case however, this behaviour was not a consequence of the decline of his relative power and authority in the economic sphere as was the case in many marriages which reached the divorce court. Edmund, unlike other men of the artisanal and lower classes, had not been emasculated by economic marginalisation. On the contrary, Edmund’s freedom of action and almost total absence of any sense of marital duty or responsibility was a function of his position as a member of the aristocracy and his blatant exploitation of the double standard. This took the form not only of his own infidelity but his attempt to blacken the moral reputation of his wife by accusing her of serial adultery. Citing paragraphs 229 and 231 of the civil code which permitted divorce on the grounds of adultery or excess, cruel mistreatment and coarse defamation, Sophie’s sexual behaviour, according to her husband, was out

40 Ebd., S. 4 (»the count, during all this time, has never, not a single time, spoken a friendly word to the countess. He has never, other than in the roughest, cruelest ways spoken about even things of no consequence, and has without fail, in the presence of the servants, bellowed and raged at her as if she were a servant girl.«).

41 Ebd., Sophie von Hatzfeld, Alimentationsklage, 1848 (she revealed to me [...] that he loved that lady [the countess Nesselrode] and I was to comply with her instructions as well as his. So the first place in the house was already occupied, the second and third were taken by an old grandmother and aunt, who regarded the household, internal governance as her prerogative. I took [...] a position that was by far not as favourable as that of a respected servant girl.«).

42 Ebd., Sophie von Hatzfeld, Scheidungsmediation, S. 2 (»He left her immediately after the marriage to sit alone day and night, to have lunch alone, [he] was almost never at home but attended to his relationship with Nesselrode in Düsseldorf. [...] When the countess Hatzfeldt arrived in Calcum a day after her wedding, she found the countess Nesselrode already established there with her child; she remained there for several weeks. Nesselrode ruled and governed as if she were the master of the Hatzfeldt house; the young countess had to be thoroughly submissive if she was not to incur the malicious outbursts of her husband and often had to tolerate impudence from her.«).

43 Ebd., S. 8 (was regularly as a tree added a ring every year).
of control. Sophie had shown her true character early on in the marriage, claimed Ed- 
mund, but he alleged that her incessant adulterous activities had increased so that she 
soon became notorious. Indeed, recently she had behaved »mit einer solchen Bosheit 
und Schamlosigkeit ohne Gränzen [...] im Bunde mit den schlechtesten Menschen« that 
she appereared to have breached the final barriers. Edmund went on to accuse his wife 
of adultery with numerous named and unnamed individuals as well as unseemly beha-
viour in public, including the wearing of indecent clothing which had allegedly caused 
a public scandal. Furthermore, he maintained that her influence was damaging the in-
terests of their three children, an argument which he had previously used at the time of 
the couple's separation in 1833 in order to transfer responsibility for their education and 
upbringing from their mother to himself. Indeed, it was even alleged that it was obvious, 
»dass die Kinder sogar Zeugen der Frevel ihrer entsittlichten Mutter waren, und dass 

das Gift der Begierde, wovon die gesunkene Frau erfüllt war, schon das zarte Gemüth 
des eigenen Knaben angesteckt hatte«.  

Edmund had attempted, like so many other husbands, to portray his wife as the key 
to disorder within the marriage. By alleging his wife's sexual impropriety Edmund aimed 
to appeal to the sentiment, enshrined in law, that perceived a woman's adultery as a 
greater destabilising force. It was she who had disrupted the sexual hierarchy; it was her 
unruliness which threatened marital order and by implication social order too. Sophie's 
dangerous sexuality had to be controlled and by naming her the guilty party in a di-
vorce suit, Edmund could not only bring about a dissolution of this marriage, thus re-
storing order to the disorderly, but he would also gain custody of the children which 
would benefit the interests of society as a whole. 

For Ferdinand Lassalle, Edmund's attempt to assert his patriarchal and paternal 
rights was symbolic of the old regime's perpetuation of class and gender inequalities. 
Sophie, on the other hand, was purportedly the victim of this marriage and of the so-
ciety into which she had been born which did nothing to protect her. It was she who, 
despite her suffering, represented a new mode of marital relationship which would be 
based on choice, affection and mutual respect rather than family agreement and pro-
perly considerations. And yet, despite the association of Sophie with social and implic-
itly political change, her counter-plea took great pains to stress qualities such as affec-
tion, sympathy, pity, selflessness and mother-love; traditional feminine qualities which 

»Gegen alle Armen und Nothleidendem war sie wie die liebevollste Mutter; trotzdem dass sie selbst 
so äusserst knapp mit Geld gehalten wurde, half sie allen, indem sie sich ihre eigenen Bedürfnisse ver-
sagend ihr Nadelgeld hierzu aufwandte, sie suchte Hülfe und Trost spendend die Kranken in ihren 
Häuten auf und unäusserlich hat sich ihr Andenken in die Herzen der Landleute zu Calcut, zu 
Schönstein-Wildenberg und Aller derer eingeprägt, die sie in ihrem Wirken beobachteten. Auch ge-
gen die Domestiken im Hause war sie voller Sanftmuth, Güte und Milde.«  

44 Ebd., Edmund von Hatzfeldt, Scheidungsklage, S. 2 (»with such spite and shamelessness that 

know no bounds [...] in alliance with the worst type of men«). 

45 Ebd., S. 7 (»that the children were witnesses to the wantonness of their immoral mother and that 

the poison of lust with which the fallen woman was filled had already contaminated the tender 
disposition of her own son«). 

46 Lassalle argued that Sophie's isolation was a consequence of her social status. »Wenn diese Frau 
das Glück gehabt hätte dem Kreise des Bürgers, des Handwerkers, des Bauern angehörben, 
hätte sich schon lange, lange ein Bruder, ein Verwandter, ein Freund gefunden [...], der jenen 
Misshandlungen ein Ziel gesetzt und schützend seine Hände über eine hülfslose Frau ausgestreckt 
haben würde.« IISH, ADAV, Hatzfeldt Inventory, 300: Auszüge aus der Kassetten-Rede Ferdi-
nand Lassales, 1848. 

47 HStAD (Zweigarchiv Schloß Kalkum), Landgericht Düsseldorf, Rep. 4/260, Sophie von Hatz-
feldt, Scheidungsklage, S. 7 (»Towards all the poor and needy she was like the most loving mo-
In contrast to Edmund who epitomised selfishness, greed and malevolence, a man who did not care for his children, Sophie was presented as a devoted mother. She carried out her duty of bringing up her first son »mit einer Leidenschaftlichkeit [...]«, welche weit die Zärtlichkeit selbst einer liebevollen Mutter überstieg.<sup>49</sup> Despite attempts by her husband to transfer the care of his youngest son to his own mother and grandmother, Sophie defended her position:

»Nichts, was Alfred betraf, überliess sie Andern oder der Bedienung. Sie verlegte die Kinderstube dicht neben ihr Schlafzimmer, um Nachts bei jedem Geschehen ihres Kindes aufzuwachen und bei der Hand zu sein; sie wusch und kämmte ihn fast immer selbst, zog ihn selbst an, immer musste er um sie sein, nie fuhr sie spazieren ohne ihn zu mitnehmen. Ihr Glück war, für seine kleinsten Bedürfnisse selbst zu sorgen [...]«.<sup>50</sup>

Lassalle’s portrayal of Sophie as the long-suffering and devoted mother was inspired. He succeeded in positioning this sympathetic image of natural femininity against the picture of uncontrollable sexuality painted by her husband. Of course these two representations were opposite sides of the same coin. In the eyes of conservatives, the unruly sexual woman could only be contained by marriage and childbirth. Lassalle succeeded in constructing an image of Sophie which emphasised her containment by her motherly duties. But he also cleverly portrayed her qualities as classless. Sophie’s attributes were recognisably feminine but not the prerogative of any particular class. Female defendants in court commonly stressed their nurturing qualities in order to paint an image of the »natural women.«<sup>51</sup> Edmund, on the other hand, a man who abused his power, was the ultimate symbol of his Ständt; a man living in the past. In this way, Lassalle presented Sophie as a universal figure; her experience, although exacerbated by her class position, might have been any woman’s experience. Edmund could only represent the patriarchal excesses of the aristocracy.

It has been asserted throughout that the Hatzfeldt affair stood for more than just the unravelling of a particularly ill-judged and unhappy marriage. And indeed, an analysis of divorce and separation proceedings heard in Hamburg between the 1830s and 1870s reveals, if anything, the typicality of the Hatzfeldt affair despite all its sensational aspects.<sup>52</sup> The marital relations of the middle and lower classes throughout Germany were negotiated around issues that were brought into clear focus by the Hatzfeldt case: these included expectations of respectful behaviour including an intolerance of physical mistreatment, management of the household, the accommodation of the needs and desires ther; in spite of the fact that she was kept extremely short of money she helped everyone by spending her pin-money, denying her own needs; administering help and consolation she visited the sick in their cottages and her memory was indelibly impressed upon the hearts of the rural population of Calcum, of Schönstein-Wildenberg and upon everyone who observed her in her work. Also, to the house servants she was full of gentleness, goodness and kindness.«<sup>51</sup> Ebd., S. 7.

48 Ebd. (with an arbour which far exceeded even the tenderness of a loving mother).<sup>48</sup> 49 Ebd. (»She entrusted the care of Alfred to no-one else or to the servants. She moved the nursery so it was close by her bedroom so that in the night she would be woken by every cry of her child and be there at hand; she washed and combed him almost entirely by herself, dressed him herself; he had always to be with her; she never went for a drive without taking him along. Her happiness was to cater to his every need [...]«).<sup>50</sup> 50 Ebd., S. 7.

51 See Abrams, Restabilisierung.<sup>51</sup> 52 Unfortunately it has not been possible to analyse a sample of cases from the Düsseldorf court where the Hatzfeldt case was heard as only a handful of files survive. The following analysis of cases heard in Hamburg is based on a sample of 128 divorce and separation files covering the years 1820–1879. Staatsarchiv Hamburg (StAH), Bestand 211-5: Niedergericht (N), Bestand 211-6: Präturen (P), Bestand 411-2: Patronat St. Pauli, Bestand 412-3: Landherrenschaft der Marschlande.
of the individual and the definition and fulfilment of marital duties and responsibilities. In many everyday divorce cases, certainly, the grounds cited for a divorce – adultery and desertion in particular – were merely a smokescreen for the underlying tensions characterising spousal relations.

Take for example the case of the Hartogs who separated in 1850 but continued a custody battle for two more years. Therese Hartog, almost as if in imitation of Sophie von Hatzfeldt, stated that it was necessary to tell the full story of the marriage in order to understand her position. Therese, like Sophie, was just 17 when she married and as she admitted, »nicht frei von Schwächen und Mängeln einer nicht ausgebildeten Erziehung«. She expected help from her much older husband, but experienced »anstatt sinniger, mit Liebe und Einsicht nachgehelfender Leitung, eine Behandlung [...], die Anfänge zwischen den Ausbrüchen närrischer Leidenschaft und herrischer Tobsucht wechselnd, schliesslich in eine Rücksichtslosigkeit und Brutalität ausgeartet ist, welche nur etwa in den allerliefsten Schichten der Bevölkerung gefunden wird«. The resemblance this case bore to the concurrent Hatzfeldt affair is striking in another respect too; the discourse on the mother's relationship with her children. Herr Hartog expressed his fear for the moral and physical welfare of the three children in the care of their mother. They were allegedly lacking the necessary care and attention. On the contrary, retorted Therese, she was a good mother within her limited means: »Ich bin dabei ganz ruhig, mein Bewusstsein sagt mir, dass ich an den Kindern thue, was ich kann; ich schicke sie zur Schule, ich bilde ihr Gemuth und Charakter nach Kräften; ich kleide sie so gut wie meine Mittel mir erlauben usw; aber ich könnte ein Meer ausschöpfen, ein Gebirge abtragen, mein Mann würde doch sage, ich leiste Nichts.«

As we examine the Hamburg cases further it is clear that the marital tensions highlighted by the Hatzfeldt case – concerning household authority, marital duties and responsibilities, and not least the demand by women for respect from their husbands – pervaded the marital tensions of the middle and lower classes. Expectations on the part of women in particular were rising in this period, not least amongst the better off. Women who insisted that they had fulfilled their side of the marriage bargain were disappointed when their husband failed to meet their obligations. Amongst the lower classes, men commonly reneged on the marriage contract by failing to provide for the family, becoming drunkards, neglecting their businesses and generally adopting a dissolute lifestyle. For the wives of artisans and labourers control of material resources was still a crucial determinant of power relations within the marriage. For those in less straightened circumstances however, tensions around responsibilities, rights and freedom of the individual assumed greater importance. Having lived with her husband for 26 years Henriette Dethgens, who had – as she wrote in her petition – borne him many

53 For examples of cases heard in other jurisdictions see Abrams, Companionship (Cleve); Blasius (Prussia); Möhle (Göttingen).
54 Under Hamburg Privatrecht a divorce was available on just three grounds: adultery, desertion and the imprisonment of a spouse. Cruelty was grounds for a formal separation.
55 StAH, P II, H 164, Hartog, 28. 5. 1852 (instead of thoughtful guidance characterised by love and understanding a treatment which, in the beginning, alternated between outbreaks of foolish emotion and domineering rage, and finally degenerated to a ruthlessness and brutality, which is to be found only amongst the lowest strata of the population).
56 StAH, P II, H 164, Hartog, 27. 4. 1852.
57 StAH, PII, H 164, Hartog, 28. 5. 1852; Hervorhebung im Original («I am quite at peace, my conscience tells me that I do what I can for my children; I send them to school, I educate their mind and character to the best of my ability, I clothe them as well as my means allow etc.; but I could drain an ocean, level a mountain, and my husband would still say that I achieve nothing.»).
58 See Möhle, S. 92–122.
children and had grown prematurely old from fulfilling her duties as spouse, mother and housewife must have felt more aggrieved than most women when her husband «sich deshalb mehr und mehr von ihr abwandte, und [...] diese Abneigung dadurch [zeigte], dass er sie lieblos behandelte, dass er ihr das Regiment im Hausstand entzog, dass er sie der nothigsten Dinge entbehren liess».\(^{59}\) Similarly, Caroline Krieger was incensed at having been accused by her husband of forgetting her responsibilities – she had left her husband – since she had promised to be a good wife and a devoted mother to his children from his first marriage, but the actions of her husband made it impossible for her to fulfill her duties: »Er wollte nicht eine Frau, er wollte eine Magd haben«, asserted Caroline in an imitation of the sentiments of Sophie von Hatzfeldt. Caroline utilised all the conventions of feminine duty in order to persuade the court of her side of the story: »Bald nach der Hochzeit zeigte es sich, dass sein ganzes frühere Betragen nur Maske gewesen sey. [...] Die Beklagte fand sich in ihr Schicksal, in der Hoffnung dass durch Sanftmuth und Gleichmützigkeit, der harte Sinn des Klägers erreicht, und er zu besseren Gesinnung gebracht werden würde [...].\(^{60}\)

Women did not use the language of equality – this may have alienated them from the sympathy of the court and in any case the evidence does not point to such a desire for full equality within marriage – but they did have expectations of mutual respect. Caroline Krieger had tried to bring about a more harmonious relationship with her husband but her feminine strategy – using sweetness and kindness – had failed. »Es ist traurig genug, lamented Maria Steben, whose husband requested a divorce after eleven years of marriage on the grounds of her quarrelsome and spite, »wenn der eheliche und häusliche Friede durch die Starheiten die Unbeachtung durch die leichthin des einen Ehegatten gestört wird: was aber soll man dazu sagen wenn, wie der Kläger das lebendige Beispiel davon giebt, ein Ehemann eine Reise von Jahren hindurch mit studierter Bosheit darauf ausgeht, seine Frau ungütlich zu machen; eine Frau, die ihre Pflichten gegen ihn auf das strengste erfüllt hat; und welcher er seine ganze bürgerliche Existenz verdanken muss?«\(^{61}\) Women were demanding more from their marriages in return for fulfilling the duties expected of them. »Kann eine Frau Achtung vor einem Mann haben«, asked Wilhelmine Burmeister, whose husband’s alleged parsimony had prevented her from fulfilling her ambition of running a school for girls, »den Geiz zu Erpressungen verleitet?« She continued:

»Kann sie den ehren und Liebevoll behandeln der ihr gegenüber mit der frechsten Stirne fur unwahr das erklärt, was sie mit ihren eigenen Augen gesehen? Muss sie solchen Mann nicht verachten, wenn sie bedenkt, dass derselbe Mann in der Schule und ausser derselben mit Eifer die befolgung der gebete Christi predigt? Wahrlich. Klägerin müsste auf derselben Stufe des moralischen Werthes mit dem Beklagten stehen, wenn sie nicht nach diesem Vorgange die Achtung vor ihm verloren hätte.«\(^{62}\)

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59 StAH, N 3000, Dethgens, 15. 12. 1871 (»therefore increasingly turned away from her and showed his antipathy [towards her] by treating her unkindly, withdrawing the control of the household from her, [and] making her go without the most essential things«).

60 StAH, N 182, Krieger, 1820 (»He did not want a wife, he wanted a maidservant.« »Soon after the wedding it became clear that all his earlier behaviour had been a facade. [...] The defendant resigned herself to her fate, in the hope that by sweetness and kindness she would be able to reach the hard soul of the plaintiff and to bring about an improvement in his character [...].«).

61 StAH, N 207, Steben, 1820 (»It is sad enough when marital and domestic harmony is destroyed by the characteristics of inconsiderateness and carelessness of one spouse, but what is there to say when a husband for a number of years consciously emanates a sense of malice, makes his wife unhappy, a wife who has strictly fulfilled her duties towards him, and to whom he owns his entire bourgeois existence?«).

62 StAH, P II, B 583, Burmeister, 1850 (»Can a wife have respect for a husband whose meanness leads to blackmail?« »Can she treat him with honour and affection when he, brazenfaced, de-
And for Bertha Traun, who had recently become a member of the dissenting Deutsch-Katholiken, it was not sufficient that her 15 year old marriage appeared to others to be happy, since »im Innern das Verhältniss der Eheleute, wenigstens nach den Ansichten der Beklagten kein genügendes [war], denn die Character passen nicht zu einander und der Kläger war der geistige Aufschwung seiner Frau eine Last«. Traun, a member of the Hamburg bourgeoisie, was outspoken in her condemnation of arranged marriage, postulating that love should not be construed as a duty. For these women of the urban middle and lower classes, gender equality within marriage was not the issue. Rather, their complaints centred upon their own needs and desires – to embrace religious freedom, to pursue a professional career, to be granted autonomy within the household, to be treated at least with due respect – free from the conventions and restrictions imposed by a false notion of marriage based on domination and subordination and polarisation of the sexes.

It would be misleading to argue from this one arena of gender conflict – the divorce court – that the early decades of the nineteenth century witnessed a turning point in the way relationships between men and women were conducted. However, this was a transitional period when two interconnected currents of change had an impact on the way changes in relations between the sexes were negotiated. The first of these was the intellectual and political ferment culminating in the revolutions of 1848/49, which created an environment which tolerated the formulation of new ideas about marriage; the second was economic transformation from a predominantly peasant and Handwerker based mode of production to a capitalist mode in agriculture and industry, necessitating changes in the organisation of the sexual division of labour. Both of these transformative currents had a gradual but far-reaching impact on the expectations men and women had for marriage and the ways in which they experienced this contract. These changes may not have been particular to Germany, but the availability of divorce through the civil courts provided a forum, that was not available elsewhere in Europe until later in the century, for individuals to describe their disappointments and articulate their needs which in turn energised public debate and undoubtedly popularised a realisation that the traditional patriarchal marriage was not the only viable model.

Edmund and Sophie von Hatzfeldt contributed to this debate. Lassalle skilfully portrayed Edmund as an outmoded patriarchal figure who could no longer expect to hold on to his power and authority – in his marriage and, by extension, in society – merely by virtue of his aristocratic status. His absolute right to Herrschaft was undermined by his belief in his own infallibility and his unacceptable behaviour towards others, and thus a signal was sent out to husbands that marriage required mutual recognition and fulfilment of rights and responsibilities. Sophie, on the other hand, despite her evident unconventional nature and possibly helped by her political sympathies, was successfully portrayed by Lassalle and in the press as the »universal woman« whose qualities transcended her aristocratic status; indeed she was like many other women who brought their private affairs into the public and used the divorce court to expose abuses within marriage. Along with Therese Hartog, Caroline Krieger, Wilhelmine Burmeister and many

63 StAH, N 1226, Traun, 10.5.1850 (the heart of the relationship of the married couple, at least in the opinion of the defendant, [was] not satisfactory because the characters do not suit each other and the spiritual awakening of his wife was a burden for the plaintiff).

others, Sophie’s battle to salvage her reputation and maintain contact with her children, although conducted in the language of conventional femininity was also perceived as radical in expressing a view of marriage which emphasised mutual respect, harmony and companionship. The Hatzfeldt affair was more than just a familiar tale of adultery and abuse but at the same time it was just that; a story of expectations unmet, responsibilities unfulfilled and respect unreciprocated. In terms of its preoccupations and its timing, this divorce case is one which sits on the cusp of longer term change in the way gender relations within marriage were experienced.