

# Discovering the Contributions of Academic Wives to the Development of Labour Law: Liesel Kahn-Freund

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## ABSTRACT

This article's starting point is a strand of historical and sociological studies literature on 'academic wives' which reveals the social and, above all, unpaid labour that facilitated an academic career up until the mid-twentieth century. The article then draws on primary and secondary sources in order to trace the life of Otto Kahn-Freund's wife, Elisabeth (Liesel) Kahn-Freund. We suggest that Liesel was an indispensable facilitator of her husband's career. She provided valuable scholarly and intellectual support; by taking on responsibility for domestic tasks and care responsibilities, she gave her husband uninterrupted time and space to build his network, travel internationally, and, perhaps most importantly, concentrate on and pursue his research. In doing so, she, and many like her, played a significant albeit largely unrecognised role in the creation of labour law as we now know it. A better understanding of the labour performed by an "academic wife" provides a more nuanced picture of where labour law has come from and the factors that went into its creation. It also encourages labour law scholars to re-evaluate what kind of labour is recognised as part of labour law and is the focus of future labour law scholarship.

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## 1. INTRODUCTION

This article's starting point is a strand of historical and sociological studies literature on 'academic wives' which reveals the social and, above all, unpaid labour that has been recognised as facilitating an academic career up until the mid-twentieth century. The article then draws on archival materials and interviews in order to trace the life of Elisabeth (Liesel) Kahn-Freund, the wife of Otto Kahn-Freund. Otto Kahn-Freund has been described as 'the doyen of British labour law',<sup>1</sup> and there have been numerous accounts written of his life and academic contribution.<sup>2</sup> Yet relatively little is known about his wife. Viewing Liesel Kahn-Freund's life through the lens of the 'academic wives' literature, we suggest that she was an indispensable facilitator of her husband's career. She provided valuable scholarly (e.g. note-taking, editing) and intellectual support. By taking on responsibility for domestic tasks and care responsibilities, she gave her husband uninterrupted time and space to build his network, travel internationally, and, perhaps most importantly, concentrate on and pursue his research. In doing so, she played an important albeit largely unrecognised role in the creation of labour law as we now know it.

A better understanding of Liesel Kahn-Freund's contribution also prompts us to consider the linkages between paid and unpaid work, and the recognition given by labour law to the former but not the latter. Although the 'male breadwinner/female caregiver model'<sup>3</sup> which underpins the analysis of an 'academic wife's' work is increasingly obsolete (in terms of

<sup>1</sup>Roy Lewis, 'Kahn-Freund and Labour Law: An Outline Critique' (1979) 8 *Industrial Law Journal* 202–21, 202.

<sup>2</sup>See, for example, Hannes Ludyga, *Otto Kahn-Freund (1900–1979) Ein Arbeitsrechtler in der Weimarer Zeit* (Berlin/Boston: De Gruyter, 2016); Mark Freedland, 'Otto Kahn-Freund' in Jack Beatson and Reinhard Zimmerman (eds), *Jurists Uprooted: German-Speaking Émigré Lawyers in Twentieth-Century Britain* (Oxford: OUP, 2004), 299–323; Otto Kahn-Freund, 'The Study of Labour Law—Some Recollections' (1979) 8 *Industrial Law Journal* 197; Otto Kahn-Freund, 'Postscript' in Roy Lewis and Jon Clark (eds), *Labour Law and Politics in the Weimar Republic* (Oxford: Basil Blackwell, 1981), 195–206; BA Hepple, 'Sir Otto Kahn-Freund, Q.C., F.B.A 1900–1979' (1979) 8 *Industrial Law Journal* 193; Lord Wedderburn, 'Professor Sir Otto Kahn-Freund' (1979) 42 *Modern Law Review* 609.

<sup>3</sup>Joanne Conaghan, 'Gender and the Labour of Law' in Hugh Collins, Gillian Lester, and Virginia Mantouvalou (eds.), *Philosophical Foundations of Labour Law* (Oxford: OUP, 2018) 271–286, 276 referencing Jane Lewis, 'The Decline of the Male Breadwinner Model' (2001) 8/2 *Social Politics* 152; Nancy Fraser, 'After the Family Wage: A Postindustrial Thought Experiment' in Nancy Fraser, *Justice Interruptus: Critical Reflections on the 'Postsocialist' Condition* (New York: Routledge, 1997) 41.

both household and work arrangements),<sup>4</sup> it largely remains embedded within labour law. Expectations about the definition of 'work' (performed and paid for under traditional contractual nexus) and its essential quality (secure = stable, full time and permanent) have not changed. Labour law still undervalues and cannot properly accommodate what is predominantly women's unpaid labour even though it is necessary to sustain paid work; paid and unpaid labour are 'co-dependent'.<sup>5</sup> By using Liesel Kahn-Freund's contribution as a way to illustrate the invisible and necessary, but socially undervalued, labour that went and still goes into sustaining any type of labour, including academic work, the article seeks to encourage labour law scholars thinking about the future of labour law to consider what kind of labour is recognised as part of labour law (and how it should be recognised).

By focussing on Liesel Kahn-Freund, we do not wish to detract from Otto Kahn-Freund's academic achievements, but to recover a part of women's history that has not hitherto been told. In doing so, this article contributes to the increasing number of academic and feminist (activist) projects writing women into law to disrupt the dominance of men-centred documentation.<sup>6</sup> A number of projects have begun to fill this gap, taking as their starting point two centenaries: one, of women being granted access to the legal professions to practise law; two, of the point at which the suffrage movement was partially successful, as certain women were made eligible to vote. Examples of women's legal history projects, mostly in the UK, include the First 100 Years on women in law,<sup>7</sup> Vote 100 on women in Parliament,<sup>8</sup> Women's Legal Landmarks on significant cases, statutes, campaigns, first women in law in the UK and Ireland,<sup>9</sup> and a global series of feminist judgments projects

<sup>4</sup>See further Simon Deakin and Frank Wilkinson, *The Law of the Labour Market: Industrialization, Employment and Legal Evolution* (Oxford: OUP, 2005) and Judy Fudge, 'A New Gender Contract? Work/Life Balance and Working Time Flexibility' in Joanne Conaghan and Kerry Rittich (eds), *Labour Law, Work and Family* (Oxford: OUP, 2005) 261–288.

<sup>5</sup>Joanne Conaghan, 'Gender and the Labour of Law' in Hugh Collins, Gillian Lester, and Virginia Mantouvalou (eds.), *Philosophical Foundations of Labour Law* (Oxford: OUP, 2018) 286.

<sup>6</sup>See, for example, Mary Jane Mossman, *The First Women Lawyers: A Comparative Study of Gender, Law and the Legal Professions* (Oxford: Hart, 2006); Patrick Polden, 'Portia's Progress: Women and the Bar, 1919–1939' (2005) 12 *International Journal of the Legal Profession* 293; Anne Logan, 'In Search of Equal Citizenship: The Campaign for Women Magistrates in England and Wales, 1910–1939' (2007) 16 *Women's History Review* 501; Hector MacQueen, 'Scotland's First Women Law Graduates: An Edinburgh Centenary' (2009) Vol 54 *Miscellany VI: Stair Society* 221–65; Rosemary Auchmuty, 'Whatever Happened to Miss Bebb? Bebb v The Law Society and Women's Legal History' (2010) 31 *Legal Studies* 199.

<sup>7</sup><https://first100years.org.uk/>

<sup>8</sup>[www.parliament.uk/get-involved/vote-100/](http://www.parliament.uk/get-involved/vote-100/)

<sup>9</sup><https://womenslegallandmarks.com>

which have reimagined key legal judgments from a feminist perspective.<sup>10</sup> These projects, generally speaking, have a number of goals. They both aim to increase public knowledge about women who have been influential in law and go beyond collating accounts of women's lives to provide an inclusive and contextual account of the law's development in order to show what can be of women's futures in and outside of law.<sup>11</sup> This article contributes to these projects by providing a more nuanced picture of where labour law has come from and the factors that went into and the people who contributed to its development.

The article is structured as follows. Section 2 provides an overview of the literature on academic wives. Section 3 details Liesel Kahn-Freund's life. As with many women, there were limited primary sources available. This is not uncommon as sources on women are often elusive and absent, particularly on women who were not 'firsts' or pioneers.<sup>12</sup> We sought information by looking through records held at the National Archives in Kew, Otto Kahn-Freund's papers held at the London School of Economics and Political Science, correspondence between Otto Kahn-Freund and other German exiles during World War Two held at the Archiv der sozialen Demokratie in Bonn (Germany), relevant literature, newspaper records, obituaries for Otto Kahn-Freund, and internet searches. We also spoke to contemporaries who had known the couple and to Liesel and Otto's daughter, Sylvia Kahn-Freund who filled in many of the gaps that remained after reviewing all other records.<sup>13</sup> We conclude in section 4 by assessing whether and to what extent this knowledge helps us to recalibrate our understanding of contemporary labour law.

## 2. THE RISE AND DEMISE OF THE 'ACADEMIC WIFE': AN (ACADEMIC) LIFE BEHIND THE SCENES

There is a substantial feminist, sociological, and historical studies literature which explores the contribution of wives to various professions. As will

<sup>10</sup>[www.sfjp.law.ed.ac.uk/about](http://www.sfjp.law.ed.ac.uk/about)

<sup>11</sup>On the difficulties of using 'women' as a category: Denise Riley, 'Am I That Name?': *Feminism and the Category of 'Women' in History* (Basingstoke: Palgrave Macmillan, 1988).

<sup>12</sup>See Rosemary Auchmuty, 'Recovering Lost Lives: Researching Women in Legal History' (2015) 42 *Journal of Law and Society* 34. On the difficulty of writing legal biography where there are limited sources, see Linda Mulcahy and David Sugarman, 'Introduction: Legal Life Writing and Marginalized Subjects and Sources' (2015) 42 *Journal of Law and Society* 1.

<sup>13</sup>Correspondence with Sylvia Kahn-Freund took the form of email exchanges throughout 2023 and a face-to-face meeting in September 2023.

follow, academia has proved to be a fertile ground for research into the role of wives in facilitating and supporting a career.<sup>14</sup>

The expectation and social organisation underlying these professions and their career structures was that of the male breadwinner, supported by a female caregiver. This 'demarcation of work and family into distinct spheres of activity' came about and was encouraged by 'the social and economic restructuring process accompanying the transition to industrial capitalism'.<sup>15</sup> Once this gendered division between productive and social reproductive activities was institutionalised through a combination of labour, family, welfare and tax law, it led to what was predominantly women's unpaid labour, and by extent their contribution, becoming invisible and undervalued; confined to the home and largely outwith the scope of legal regulation and political consideration.<sup>16</sup> As expressed by Otto Kahn-Freund and Bill Wedderburn, unpaid work performed in the home found itself outside of labour law's purview: 'the normal behavior of husband and wife or parents and children toward each other is beyond the law—as long as the family is "healthy": The law comes in when things go wrong'.<sup>17</sup>

The 'academic wives' literature seeks to make visible the work performed by the female caregiver and thereby shows the inherent interrelationship and co-dependence between paid and unpaid work. The scholarship addressing the role of wives of (mostly North American and UK) academics has different strands.

<sup>14</sup>The focus here is on incorporated wives, so women whose contribution has been hidden in the accounts of law's academic development to date. There are separate strands of literature which look at, for example, collaboration between husbands and wives at a time when women's intellectual labour was routinely marginalised or undervalued. See Annette Lykknes et al. (eds), *For Better or For Worse? Collaborative Couples in the Sciences* (Basel: Birkhäuser, 2012) or Helena M Pycior et al. (eds), *Creative Couples in the Sciences* (New Brunswick, NJ: Rutgers University Press, 1996). Others have focussed on the contribution of women to the discipline of sociology. See, for example, the essays on <https://www.soziopolis.de/dossier/die-unsichtbare-haelfte.html> or the works on Marianne Weber (Bärbel Meurer, *Marianne Weber. Leben und Werk* (Tübingen: Mohr Siebeck, 2010) and see <https://www.newyorker.com/magazine/2004/11/29/why-work> or <https://womansrational.uchicago.edu/2021/11/26/marianne-weber/>).

<sup>15</sup>Conaghan, 'Gender and the Labour of Law', 273–4.

<sup>16</sup>For a more detailed exploration of the paid/unpaid work paradigm and labour law, including links to other literature, see Conaghan, 'Gender and the Labour of Law'.

<sup>17</sup>Otto Kahn-Freund and William Wedderburn, 'Editorial Foreword' in John Eekelar (ed), *Family Security, and Family Breakdown* (London: Penguin 1971), 7. Thanks to Judy Fudge for pointing us to this quote. For a thoughtful discussion of labour law's scope see Judy Fudge, 'Feminist Reflections on the Scope of Labour Law: Domestic Work, Social Reproduction, and Jurisdiction' (2014) 22 *Legal Studies* 1.

A first strand approaches the wives' contributions from the wider phenomenon of 'incorporation'. 'Incorporation' refers both to the wife's incorporation into the structures around which their husband's work is organised and the incorporation of her labour into their husband's work. Hanna Papanek, writing in 1973, conceptualised the relationship of a wife to her husband's work as a 'two-person single career',<sup>18</sup> applying 'most directly to women who are so highly involved in their husbands' careers that they consider it to be a true partnership, rather than just their husbands' work'.<sup>19</sup> On this understanding, a wife not only supports her husband's career in very concrete ways but also becomes identified with and/or incorporated into it. Hanna Papanek shows how this incorporation is 'a structural part of the middle-class wife's role' and 'fully congruent with the stereotype of the wife as supporter, comforter, back-stage manager, home maintainer and main rearer of children'.<sup>20</sup>

Janet Finch, in *Married to the Job*, expands Hanna Papanek's analysis beyond the middle classes. She shows how, in similar ways, the police wife, academic wife, army wife, Colonial Service wife and oil company wife found their social identity to be inescapably defined by their husband's occupation, while their interests were assumed to be one and the same as those of their husband's employer.<sup>21</sup> The central theme of Finch's book is that 'when a woman marries, she marries not only a man but also she marries his job, and from that point onwards will live out her life in the context of the job which she has married'.<sup>22</sup> The focus is therefore on specific (traditionally male) jobs and their peculiar features rather than work in general; and on the specific consequences of those jobs/marriage for women, rather than motherhood (although there may be overlaps and wives who are mothers may face additional challenges). In this context, Shirley Ardener and Lidia Sciamia have traced the history and experience, respectively, of academic wives in

<sup>18</sup>Hanna Papanek, 'Men, Women, and Work: Reflections on the Two-Person Career' (1973) 78 *American Journal of Sociology* 852.

<sup>19</sup>Eliza K Pavalko and Glen H Elder, 'Women Behind the Men: Variations in Wives' Support of Husbands' Careers' (1993) 7 *Gender & Society* 548, 557.

<sup>20</sup>Papanek, 'Men, Women, and Work' 852, 857 and 853.

<sup>21</sup>Janet Finch, *Married to the Job: Wives' Incorporation in Men's Work* (London: G Allen & Unwin, 1983). For work specifically on clergymen's wives which draws similar conclusions see Neil Armstrong, 'I Insisted I Was Myself: Clergy Wives and Authentic Selfhood in England c. 1960–1994' (2013) 22 *Women's History Review* 995 and for a broad range of other contributions see Hilary Callan and Shirley Ardener (eds), *The Incorporated Wife* (London: Croom Helm, 1984).

<sup>22</sup>Finch, *Married to the Job*, 1.

Oxford and Cambridge Universities from the mid-nineteenth century when the celibacy rules for Fellows were gradually lifted, until the 1960s when women began to forge independent academic careers in their own right.<sup>23</sup> They describe the many activities in which these wives engaged which ranged from providing scholarly support and unofficial secretarial duties to their husbands, rearing children and running of (up until the Second World War often large) households, entertaining undergraduates and other academics, participating in public life, for example through unpaid community work, and also often engaging in scholarship in their own right. In doing so, Ardener paints a picture of wives engaging in varied, often undervalued, activities which nonetheless made a 'real contribution towards community life and the aims of scholarship'<sup>24</sup>; although the extent to which these wives felt "'incorporated" in their husbands' work and career [depended] on individual circumstances'.<sup>25</sup>

In a second strand, Alison Prentice, Katherine Turk, Donica Belisle and Kiera Mitchell, writing from a North American perspective, have recovered the history of so-called 'faculty wives' by tracing the history of individual women and/or the role of groups of faculty wives on particular campuses.<sup>26</sup> Similar to the 'incorporated wife', the term 'faculty wife', in vogue from the 1910s to the 1960s, described women who both derived status from their husband's position as academic faculty/professorial staff while also supporting their spouses' academic endeavours. As Donica Belisle and Kiera Mitchell explain, 'wives' labours in this regard were wide ranging and included typing, editing, researching, hosting, running errands, attending events, mentoring students, raising funds, and performing emotional labours such as sending greeting cards and attending funerals'.<sup>27</sup> The different types of labour undertaken by these women provided subtle yet important support

<sup>23</sup>Shirley Ardener, 'Incorporation and Exclusion: Oxford Academics' Wives' and Lidia Sciama, 'Ambivalence and Dedication: Academic Wives in Cambridge University, 1870–1970' in Hilary Callan and Shirley Ardener (eds), *The Incorporated Wife* (Croom Helm, 1984).

<sup>24</sup>Shirley Ardener, 'Incorporation and Exclusion: Oxford Academics' Wives' in Hilary Callan and Shirley Ardener (eds), *The Incorporated Wife* (Croom Helm, 1984), 46.

<sup>25</sup>Ardener, 'Incorporation and Exclusion', 46–47.

<sup>26</sup>Alison Prentice, 'Boosting Husbands and Building Community: The Work of Twentieth-Century Faculty Wives' in Paul Stortz and E Lisa Panayotidis (eds), *Historical Identities: The Professoriate in Canada* (Toronto: University of Toronto Press, 2006); Katherine Turk, 'The Hand that Rocks the Cradle Should Rock the U. of C.: The Faculty Wife and the Feminist Era' (2014) 26 *Journal of Women's History* 113; Donica Belisle and Kiera Mitchell, 'Mary Quayle Innis: Faculty Wives' Contributions and the Making of Academic Celebrity' (2018) 99 *Canadian Historical Review* 456.

<sup>27</sup>Belisle and Mitchell, 'Mary Quayle Innis' 456, 460.

to their husbands' careers. Scholarly support could include typing, editing, referencing, note-taking or translating, collaborating in the laboratory or participating in fieldwork; all of which increased a husbands' intellectual outputs and reputation. These activities tended to be informal and vicarious and not provide women with a recognition of their own.<sup>28</sup>

Wives' social labour which encompassed, inter alia, the hosting of academic gatherings and accompanying their spouses to outside events, also boosted their husbands' careers by 'demonstrating [their] social capital, revealing that, in addition to having a faculty position, [they] also had a devoted wife and [children].'<sup>29</sup> Equally important in this context is that also universities, amongst other institutions, developed 'their own vision of the two-person career pattern', communicating 'certain expectations to the wives of their employees.'<sup>30</sup> These expectations had the dual purpose of reinforcing the commitment of husbands to the institution while demanding the performance of certain roles from the wives that were beneficial to the institution.<sup>31</sup> Not participating in the entertainment of guests or holding children's parties would risk injuring their husbands' career, albeit this kind of work appeared to be optional.<sup>32</sup> It is well recognised that having 'a respectable wife enhanced [a husband's] reputation as a trustworthy colleague.'<sup>33</sup>

Focusing more generally on the 'husband's career support', Eliza Pavalko and Glen Elder identified different patterns of involvement: unpaid partners (a kind of 'true partnership'), auxiliary worker (not just engaged in occasional unpaid activities), and enabling (providing supporting services 'helping their husbands reach their true potential').<sup>34</sup> Similarly, Martha Fowlkes has developed a 3-fold conceptualisation of academic wives' relationship to their husband's work: namely acting as career adjunct, lending support, and doing double duty.<sup>35</sup> A more granular typology has been suggested by W Jay Strickland, who argues that a certain level of achievement style directly influences the particular achievement role: (1) vicarious achievement: homemaker, (2) relational achievement: background supporter, team worker and (3) direct achievement: parallel work and non-parallel worker. Notably, a career wife's role 'consists of specific tasks relative to market

<sup>28</sup>W Jay Strickland, 'A Typology of Career Wife Roles' (1992) 45 *Human Relations* 797, 860–63.

<sup>29</sup>Belisle and Mitchell, 'Mary Quayle Innis' 456, 472.

<sup>30</sup>Hanna Papanek, 'Men, Women, and Work' 852.

<sup>31</sup>*Ibid.* 852, 858.

<sup>32</sup>*Ibid.* 852, 859.

<sup>33</sup>Belisle and Mitchell, 'Mary Quayle Innis' 456, 472.

<sup>34</sup>Pavalko and Elder, 'Women Behind the Men' 548, 557–60.

<sup>35</sup>Martha R Fowlkes, *Behind Every Successful Man: Wives of Medicine and Academe* (New York: Columbia University Press, 1980).

production and patterns of social relations with individuals who relate to her in this context?<sup>36</sup>

Underpinning all of this was the domestic work performed in the home: cooking, cleaning, raising children, etc. As feminist scholars have pointed out, unpaid work in the home also 'reproduce[s]' the labour force in that those who provide unpaid 'household services and emotional support' help to 'renew and ready its members for another day's work'.<sup>37</sup> By assuming responsibility for domestic labour, faculty wives freed up uninterrupted time for their husbands to engage with their research while also creating a nurturing home environment and releasing their spouses from the tasks involved in maintaining their own everyday bodily welfare, including food and clothing preparation.<sup>38</sup> Donica Belisle and Kiera Mitchell in portraying the role and influence Mary Quayle Innis had on her husband, Harold Innis (a Professor of political economy at the University of Toronto<sup>39</sup>), summarise:

Given the extent of Quayle's contributions, it is clear that had Innis not married Quayle he would have had to either find other people to fulfill these duties or have done them himself. Either way, his productivity would have suffered. Moreover, since Quayle was an accomplished intellectual, it is doubtful that he would have been able to find someone to tame his prose to the extent that she did. By marrying Quayle, then, Innis brought a brilliant thinker, typist, editor, networker, caregiver, and housekeeper into his life. It was perhaps the best decision he made as an academic, and one that made his illustrious career possible.<sup>40</sup>

It is apposite then to question whether 'intellectual celebrity was possible to achieve independently' at all.<sup>41</sup>

By focussing on Liesel Kahn-Freund in the next section, we aim to highlight how she, by taking on certain roles, facilitated Otto Kahn-Freund's career and, by extension thereby, herself made an important contribution to labour law's development. Viewing Liesel Kahn-Freund's life and work through the lens of the academic wives literature also highlights 'that work

<sup>36</sup>Strickland, 'A Typology of Career Wife Roles' 797, 802–03.

<sup>37</sup>Belisle and Mitchell, 'Mary Quayle Innis 456, 473 citing Marcia L Bellas, 'The Effects of Marital Status and Wives' Employment on the Salaries of Faculty Men' (1992) 6 *Gender & Society* 602, 609.

<sup>38</sup>Belisle and Mitchell, 'Mary Quayle Innis 456, 475.

<sup>39</sup>With thanks to an anonymous reviewer for pointing out the parallel that Innis's enduring influence on how Canadian political economy is understood is analogous to Otto Kahn-Freund's influence on UK labour law.

<sup>40</sup>Belisle and Mitchell, 'Mary Quayle Innis 456, 475–76.

<sup>41</sup>Ibid. 456, 476.

relations take diverse forms, only some of which find recognition within the paid work paradigm of current labour law.<sup>42</sup> Focussing on a wife's labours thus allows us 'to challenge and change the dominant narrative of the past'.<sup>43</sup> To be clear, we are not calling for a return to some sort of mythical past of academic wives. Instead, we want to use this literature as a way to think about labour law's development (up until today) in a more inclusive way, making visible and revaluing the many labours that supported and continue to support an academic career.

### 3. LIESEL KAHN-FREUND

Elisabeth (Liesel) Kahn-Freund (née Klaiß<sup>44</sup>) was born on 1 May 1907 in Ludwigshafen, Germany.<sup>45</sup> Liesel's mother was Roman Catholic and brought up her children in that religion. Liesel's father worked as a technician (*Installateur*) for the chemical complex BASF; the largest employer in the city. He was a socialist, trade union member and atheist. Liesel was born 7<sup>th</sup> of 12 surviving children. The family lived in Hemshof—a working-class area of Ludwigshafen—and were poor even by the standards of the time. Liesel remembered that when bananas first arrived in Ludwigshafen, her mother, wanting to do the best for the children but always short of money, brought a single banana home which was ceremoniously cut into 12 pieces. The outbreak of World War One and the resulting food shortages hit the urban poor like Liesel's family particularly hard. She and her siblings often went to school hungry, sometimes only having had slices of fried potato for breakfast.<sup>46</sup>

Liesel attended the *Gräfenauschule* (a *Volksschule*—compulsory 9-year schooling for all combining primary school and lower secondary education) from 1913 onwards. She was an intelligent and independent girl and her teacher strongly encouraged Liesel's parents to send her to a high school

<sup>42</sup>Joanne Conaghan, 'Gender and the Labour of Law' 286.

<sup>43</sup>Erika Rackley and Rosemary Auchmuty, 'Women's Legal Landmarks: An Introduction' in Erika Rackley and Rosemary Auchmuty (eds), *Women's Legal Landmarks: Celebrating the History of Women and Law in the UK and Ireland* (Oxford: Hart, 2019) 5.

<sup>44</sup>On the marriage certificate (Landesarchiv Berlin; Berlin, Deutschland; *Personenstandsregister Heiratsregister*) it is Klaiß; in English documents Klaiß and occasionally Klaitz.

<sup>45</sup>See the entry by JK Barry and M Nicholas on 'Otto Kahn-Freund' in the Oxford Dictionary of National Biography published online 23 September 2004.

<sup>46</sup>The information in this paragraph is drawn from correspondence with Sylvia Kahn-Freund.

for girls (*Mädchenlyzeum*).<sup>47</sup> This was an expensive undertaking and Liesel was the only child to be allowed to remain in school—she attended the *Soziale Frauenschule Mannheim*<sup>48</sup>—beyond the age of 14, while her siblings were required to take up apprenticeships or actual employment at that age. However, when her father died in 1922 (when Liesel was 15), 7 of 12 children were still of school age so her mother needed Liesel to help at home rather than complete her schooling. From the age of 17, she worked as an assistant nurse in Ludwigshafen. In the course of covering a hospital ward on night shifts alone she endured the cries of men suffering from severe burns resulting from industrial accidents, and this left an indelible impression on her. Liesel maintained her interest in medicine and welfare issues into adulthood.<sup>49</sup>

It was during this time, from about age 17 on, that Liesel broke any connection with the church and developed—encouraged by her father's example—an interest in politics. She joined various youth groups, including the socialist youth movement (*sozialistische Arbeiterjugend*), the socialist student society (*sozialistische Studentenschaft*) and the Social Democratic Party (SPD).<sup>50</sup> This meant that she came into contact with the *Akademie der Arbeit* (where she was one of the first female students) which had been established in Frankfurt in 1921 by the labour lawyer, Hugo Sinzheimer and the legal historian Eugen Rosenstock-Huessys with the support of the trade unions.<sup>51</sup> Several prominent left-wing academics and policymakers (including Otto Kahn-Freund) taught at the Akademie until it was closed by the Nazis in March 1933.

The *Akademie der Arbeit* was to be a novel form of educational institution, to combine trade union professional expertise with a higher demand for

<sup>47</sup>The information in this paragraph is drawn from a newspaper article written for Elisabeth Kahn-Freund's 80th birthday, found in Sylvia Kahn-Freund's personal records (no date or source included), and from correspondence with Sylvia Kahn-Freund.

<sup>48</sup>Archiv der sozialen Demokratie, NL Auerbach Mappe 61, Brief Liesel Kahn-Freund an Auerbach 25.6.46. The school was founded in 1916 in the course of the women's movement with the aim of providing vocational training for women in the welfare care sector. See further Peter Hammerschmidt and Florian Tennstedt, 'Der Weg zur Sozialarbeit: Von der Armenpflege bis zur Konstituierung des Wohlfahrtsstaates in der Weimarer Republik' in Werner Thole (ed), *Grundriss soziale Arbeit. Ein einführendes Handbuch* (4th ed, Wiesbaden: VS Verlag, 2012) 73–86.

<sup>49</sup>Correspondence with Sylvia Kahn-Freund.

<sup>50</sup>Liesel Kahn-Freund, 'Am Vorabend der Emigration' in André Lutz (ed), *Gesamtrat der Berliner Gerichte für Arbeitssachen—60 Jahre Berliner Arbeitsgerichtsbarkeit 1927–1987* (Berlin Verlag: Arno Spitz, 1987), 139.

<sup>51</sup>See further Archiv der sozialen Demokratie, NL Auerbach Mappe 61, Brief Liesel Kahn-Freund an Auerbach 25.6.46.

free and general education. The primary aim of the teaching was thus the ‘[s]ystematic training of independent thinking [...] and the repression of hasty value judgements before the clear recognition of contexts’.<sup>52</sup> The *Akademie* appears to have cultivated a view of work, society, and politics that Liesel and Otto shared. In the context of the Weimar Republic, the *Akademie* was intended to make an important contribution to the democratisation of society and the workplace,<sup>53</sup> and to offer young people from a working-class background a basic education in law, economics and social sciences and also impart specialist knowledge. The independent trade unions in particular used the *Akademie* to train and professionalise their members. Its lectures could be attended by high school pupils and university students. Although the *Akademie* was open to women, of the approximately 560 students in the first ten years of the programme, there were only 26 female students; in some years there was only one female student.<sup>54</sup> Friends that Liesel made at the *Akademie* recommended that she do the *Begabtenabitur*,<sup>55</sup> an aptitude examination, introduced in Prussia in 1924, to enable particularly gifted students who were lacking the formal school leaving certificate (*Abitur*) to proceed to tertiary education. Having passed, Liesel enrolled to study law in Leipzig and Berlin, another choice which would not have been an obvious one for a woman at that time.<sup>56</sup>

Calls for the admission of women to study at universities did not begin in Germany until the second half of the nineteenth century.<sup>57</sup> The first female students at German universities were admitted (as guests) in Leipzig in 1871 and, in Berlin, in the winter semester of 1895/96. Enrolment in a proper course of study was not however possible until 1900, first in Baden. Between 1900 and 1908, the bans on women’s studies were lifted everywhere in Germany. In 1908, the overall percentage of women enrolled at universities was 2.4%, which doubled the next year to 4.9% and rose to 6.2% by 1914. These figures increased slightly during the First World War as a result of a

<sup>52</sup><https://ada-kantine.org/100-jahre-akademie-der-arbeit/>

<sup>53</sup><https://ada-kantine.org/100-jahre-akademie-der-arbeit/>

<sup>54</sup>See <https://www.fes.de/archiv-der-sozialen-demokratie/artikelseite-adsd/100-jahre-akademie-der-arbeit>.

<sup>55</sup>Newspaper article written for Elisabeth Kahn-Freund’s 80th birthday, found in Sylvia Kahn-Freund’s personal records (no date or source included).

<sup>56</sup>See Archiv der sozialen Demokratie, NL Auerbach Mappe 61, Brief Liesel Kahn-Freund an Auerbach 25.6.46. It has not been possible to source the year in which Liesel started her studies. It is only known that she passed her first state examination in 1933.

<sup>57</sup>This paragraph summarises the overview provided in Marianne Kriszto, ‘Frauen im Studium’ in Wiltrud Gieseke (ed), *Handbuch zur Frauenbildung* (Wiesbaden: VS Verlag, 2001) 293–302.

decline in male students and by 1918/19, women made up 9.5% of students. Article 109 of the Constitution of the Weimar Republic (adopted in 1919) proclaimed the equality of men and women before the law<sup>58</sup> which opened up different professions, and by extension, university degrees to women. From the middle of the 1920s onwards, female student numbers began to rise again and by the winter semester of 1932/33, just under 19% of students were women.<sup>59</sup> Although it was thus possible for women to enrol in law school from the early twentieth century onwards, the only degree women could obtain was a doctorate; they could not take the state examinations required for the legal professions. This was only made possible when the ban on women entering the legal professions was lifted in 1922 (three years after the Weimar Constitution enshrined gender equality).<sup>60</sup> Even after the ban was lifted, law remained a predominantly male field: in 1930, the proportion of women at law schools was 2–3%<sup>61</sup> and law was known for being a conservative and politically strongly right-wing male bastion.<sup>62</sup> It would have therefore taken some courage and determination for a woman to enrol in the degree at the time. During her law studies in Berlin, Liesel was also an active member of several semi-political/intellectual, left-wing circles. It was here that she met Otto Kahn-Freund.<sup>63</sup> They married in 1931 and lived in the *Gartensiedlung Tempelhof*, a suburb of Berlin.<sup>64</sup>

<sup>58</sup>‘Alle Deutschen sind vor dem Gesetze gleich. Männer und Frauen haben grundsätzlich dieselben staatsbürgerlichen Rechte und Pflichten.’

<sup>59</sup>See <https://de.statista.com/statistik/daten/studie/1148156/umfrage/weibliche-studierende-in-deutschland/>. In subsequent decades this number fluctuated widely. For an overview of the history of women at German universities see Anne Schlüter, *Pionierinnen—Feministinnen—Karrierefrauen?: zur Geschichte des Frauenstudiums in Deutschland* (Pfaffenweiler: Centaurus Verlag, 1992) and Marianne Kriszio, ‘Frauen im Studium’ in Wiltrud Gieseke, *Handbuch zur Frauenbildung* (Wiesbaden: VS Verlag, 2001) 293–302.

<sup>60</sup>Gesetz über die Zulassung von Frauen zu den Ämtern und Berufen der Rechtspflege vom 11.7.1922, RGBI I, 573. For an overview see further DJB, *Juristinnen in Deutschland. Die Zeit von 1900 bis 1998* (3. Aufl., 1998) and the entries in Marion Röwekamp, *Juristinnen. Lexikon zu Leben und Werk* (Baden-Baden: Nomos, 2005).

<sup>61</sup><https://jurios.de/2021/08/31/drei-historische-juristinnen-die-in-deutschland-rechtsgeschichte-schrieben-teil-1/>

<sup>62</sup><https://www.dhm.de/lemo/kapitel/weimarer-republik/alltagsleben/juristinnen-in-der-weimarer-republik.html>. A more recent overview of the contribution of women to the legal academy in Germany can be found in the contributions to Ulrike Schultz et al, *De jure und de facto: Professorinnen in der Rechtswissenschaft. Geschlecht und Wissenschaftskarriere im Recht* (Baden-Baden: Nomos, 2018).

<sup>63</sup>Otto Kahn-Freund, ‘Autobiographical Memories of the Weimar Republic: A Conversation with Wolfgang Luthardt (February 1978)’ (1981) 14 *Kritische Justiz* 183, 187 (‘halb-politisch/akademischen Zirkeln’).

<sup>64</sup>Kahn-Freund, ‘Am Vorabend der Emigration’, 139.

Otto Kahn-Freund was born into a Jewish family in Frankfurt am Main in 1900. Unlike Liesel, his family was upper middle class, cultured and well-travelled. Otto's father, Richard Kahn, was a businessman working in the leather trade, and he often took his son travelling with him.<sup>65</sup> Otto studied law at the University of Frankfurt where he was a PhD student of Hugo Sinzheimer.<sup>66</sup> He subsequently became a judge at the Berlin Labour Court from 1928 to 1933. After their marriage, the Kahn-Freunds remained members of a prominent circle of left-wing intellectuals which included Otto Suhr, Ernst Fraenkel, Otto Kirchheimer and Franz Neumann. It was not uncommon for wives to be active participants in the discussions that took place. Liesel also describes close friendships with a number of Berlin Labour Court judges and their wives, forged when she accompanied her husband on social outings of the judges.<sup>67</sup>

Liesel was well aware of her husband's work at the court. She describes how he frequently and with little or no notice brought home younger colleagues or trainees for lunch (*'meist nur nach ganz kurzfristiger Ankuendigung'*). The couple discussed Otto's work in the court and Liesel shared his interest in labour law (*'Mein Mann war ein sehr mitteilbarer Mensch, und ich selbst war als angehende Juristin an der Taetigkeit meines Mannes sehr interessiert und teilte auch sein besonderes Interesse am Arbeits- und Sozialrecht'*). Liesel would type Otto's judgments.<sup>68</sup> At the same time, Liesel continued her own law studies.

When the Nazis came to power, Otto Kahn-Freund was already known for a small book criticising the ideology behind the decisions of the Supreme Labour Court, and he was soon in collision with the party. He presided over a case ('the radio broadcast case') concerning the unfair dismissal of employees of the radio service who were alleged to be communists and to have tried to sabotage Hitler's first broadcast on 9 February 1933. In his judgment, Otto Kahn-Freund found in favour of the workers and ordered their reinstatement and the payment of appropriate compensation. However, the workers were arrested following the judgment and Kahn-Freund was suspended as a judge on 24 March 1933; the same day that Liesel passed her first state examination in law.<sup>69</sup> She postponed the start of her legal traineeship

<sup>65</sup> Correspondence with Sylvia Kahn-Freund.

<sup>66</sup> For an overview of Otto Kahn-Freund's distinguished life and career see Freedland, 'Otto Kahn-Freund (1900–1979)' in Jack Beatson and Reinhard Zimmerman (eds),

<sup>67</sup> Kahn-Freund, 'Am Vorabend der Emigration'.

<sup>68</sup> All quotes in this paragraph are from Kahn-Freund, 'Am Vorabend der Emigration', 140–41.

<sup>69</sup> Kahn-Freund, 'Am Vorabend der Emigration', 143. The 'radio broadcast case' is also discussed in more detail in Ulrich Mückenberger, 'One Last Demonstration of Judicial Independence... Otto Kahn-Freund's Judgment in the 'Radio Case'' (2015) *Modern Law Review* 1.

at the court so that she and her husband could travel to England in June 1933 'ostensibly for a fortnight's holiday and to explore the possibility of immigration'.<sup>70</sup> Immigration to the UK in particular was logical since Otto Kahn-Freund had already been there for a longer stay in 1928<sup>71</sup> and they perceived the USA as being culturally too different.<sup>72</sup> While they were in England on holiday their house in Berlin was raided by the *Sturmabteilung* troops (SA). Otto's papers were seized and their housemaid was arrested. Following correspondence with their friend, Ernst Fraenkel, Liesel returned to Germany on her own and secured the housemaid's release. She subsequently travelled by public transport to, and on foot across, the Dutch border and got a boat back to England. The Kahn-Freunds did not return to live in Germany, remaining in England where they built up a new life.<sup>73</sup> They were stripped of their German citizenship in 1939 and were naturalised as British citizens in 1940.<sup>74</sup> Liesel never started her legal traineeship.

The early years in England were hard for the couple as they tried to establish themselves with little money. While Otto spoke good English, Liesel had schoolgirl English when they arrived. Otto became a student at the London School of Economics and was appointed as assistant lecturer in 1935. The couple lived initially in London. In 1938, they built a house intended as a weekend cottage in Haslemere, West Sussex. Liesel was to live in Haslemere during the war while Otto was based in Cambridge when the LSE was evacuated there in 1939.<sup>75</sup> Following the war, the house in Haslemere became and remained their principal residence throughout the rest of their lives.<sup>76</sup>

In the run-up to and during the war, both Otto and Liesel were active in working with other German socialist exiles in the UK although the role played by women, and in particular the wives of prominent exiles, in this

<sup>70</sup>Mark Freedland, 'Otto Kahn-Freund (1900–1979)', 306; Kahn-Freund, 'Am Vorabend der Emigration', 143.

<sup>71</sup>See the biography of Otto Kahn-Freund in André Lutz (ed), *Gesamtrat der Berliner Gerichte für Arbeitssachen—60 Jahre Berliner Arbeitsgerichtbarkeit 1927–1987* (Berlin Verlag: Arno Spitz, 1987).

<sup>72</sup>Correspondence with Sylvia Kahn-Freund.

<sup>73</sup>The information in this paragraph was sourced during a conversation with Sylvia Kahn-Freund.

<sup>74</sup>National Archives and Records Administration (NARA); Washington, DC; *Name Index of Jews Whose German Nationality Was Annulled by the Nazi Regime* (Berlin Documents Center); Record Group: 242, *National Archives Collection of Foreign Records Seized, 1675–1958*; Record Group ARC ID: 569; Publication Number: T355; Roll: 4, *Hartmann, Margarethe—Kapp, Hildegard*.

<sup>75</sup>The information in this paragraph is drawn from correspondence with Sylvia Kahn-Freund.

<sup>76</sup>See Freedland, 'Otto Kahn-Freund (1900–1979)':

regard is under-researched. Due to its initially restrictive immigration policy, the UK was not a primary destination for Germans fleeing their country throughout most of the 1930s.<sup>77</sup> It is estimated that in 1935 only 2,500 German refugees lived in the UK; a group that was also composed of a relatively large number of wealthy or famous personalities, as well as academics, including the Kahn-Freunds.<sup>78</sup> As a result of increasing numbers of refugees from Germany, the UK changed its visa policy in 1938. About 70% of refugees fleeing after the *Reichskristallnacht* in November 1938 came to the UK and it is estimated that, by September 1939, about 55,000 Germans (the vast majority of whom were Jewish) were in the UK.<sup>79</sup> Although the majority of the refugees did not consider themselves political exiles, London nonetheless developed into a major activity hub. German emigrants engaged in numerous activities to rescue and support other refugees, and also tried to fulfil political tasks, such as working out a programme for an ‘other’ Germany.<sup>80</sup> Among the German political exiles were representatives of most of the parties of the Weimar period that had been banned in Germany, predominantly of the political left, as well as representatives of the German trade unions.<sup>81</sup>

The Kahn-Freunds were actively involved with and known amongst left-wing political exile circles, as is evident from the correspondence between Otto and other exiles. In these letters, it was not unusual for the (predominantly male) correspondents to make reference to their wives, their well-being, their joint activities, and how they supported their work in practical terms (e.g. by typing the letters!).<sup>82</sup> In the absence of formal secretarial support, the wives of exiled political activists took on an important role by undertaking secretarial and other administrative roles in addition to establishing self-help networks and often supplementing the household income through informal work. For example, in 1940, Liesel was recommended as

<sup>77</sup>For reasons including the country’s restrictive asylum policy, economic policies and general approach to international relations, see Waltraud Strickhausen, ‘Großbritannien’ in Claus-Dieter Krohn et al (eds), *Handbuch der deutschsprachigen Emigration 1933–1945* (Darmstadt: Primus Verlag, 1998) 251–270.

<sup>78</sup>Ibid.

<sup>79</sup>Ibid.

<sup>80</sup>See, for example, Walter Auerbach, Hellmut von Rauschenplat [Fritz Eberhard], Otto Kahn-Freund, Kurt Mandelbaum, *The Next Germany. A Basis of Discussion on Peace in Germany*, (New York: Harmondsworth, 1943).

<sup>81</sup>See further Werner Röder, *Die deutschen sozialistischen Exilgruppen in Großbritannien 1940–1945* (Hannover: Verlag für Literatur und Zeitgeschehen, 1969) chapter 4 and Ludwig Eiber, *Die Sozialdemokratie in der Emigration* (Bonn: JHW Dietz Nachfolger, 1998) XVIII.

<sup>82</sup>See Ellen Babendreyer, *Walter Auerbach—Sozialpolitik aus dem Exil* (2007) available at <https://nbn-resolving.org/urn:nbn:de:hbz:465-20070718-103345-5>.

Secretary of a Tribunal established by the Secretary of State for Home Affairs which would consider the release of German refugees under Clause 19 of the 'Categories of Persons Eligible for Release from Internment' (while her husband was proposed as Chairman).<sup>83</sup> She and Otto were also engaged in providing practical support, for example by helping people to leave Germany the way Liesel had in 1933 (via the Netherlands), providing sponsorship to Jews seeking a visa to exit Germany, finding jobs for newly-arrived exiles, and offering administrative support.<sup>84</sup> After the war, in 1946, Liesel was invited by returning German socialist exiles to give a lecture series in Germany on her areas of expertise which included the British welfare state and social policy. Although Liesel is initially interested, she suggests postponing the trip so that she can accompany her husband on his planned lecture tour to Germany.<sup>85</sup> In the end, Liesel's trip did not take place.

Liesel Kahn-Freund's path was in this instance not dissimilar to other well-educated wives of prominent exiles whose own careers were interrupted by having to flee and who prioritised their husbands securing paid income to ensure survival.<sup>86</sup> Although Liesel also returned to her initial interest in medicine by registering as an external student at London University for a degree in Medicine, following demobilisation, places at medical school were given to returning troops. She instead completed a number of courses in social work and child psychiatry, and (after the war) did voluntary work for Chichester children's psychiatric services.<sup>87</sup> According to her daughter, she was hugely disappointed in not being able to complete medicine but was also fully occupied in supporting Otto in his work. They talked endlessly about work and labour law. She was intellectually very much his equal.<sup>88</sup>

After the war, Otto became a professor at the LSE in 1951. They adopted their daughter, Sylvia, in 1952.<sup>89</sup> From 1953 onwards, Liesel and Otto lived,

<sup>83</sup> Archiv der sozialen Demokratie, NL Auerbach, Mappe 21 Letter from Gillies to 'Dear Comrade', 2 September 1940.

<sup>84</sup> Archiv der sozialen Demokratie, NL Auerbach, Mappe 11 Brief Kahn-Freund an Auerbach 15.4.1937 and NL Auerbach Mappe 61, Brief Liesel Kahn-Freund an Auerbach 25.6.46.

<sup>85</sup> Archiv der sozialen Demokratie, NL Auerbach Mappe 61, Brief Liesel Kahn-Freund an Auerbach 25.6.46.

<sup>86</sup> For example, Käte Auerbach, the wife of another prominent left-wing exile Walter Auerbach, had been enrolled for a doctorate in Germany. See Ellen Babendreyer, *Walter Auerbach – Sozialpolitik aus dem Exil* (2007) available at <https://nbn-resolving.org/urn:nbn:de:hbz:465-20070718-103345-5>.

<sup>87</sup> Correspondence with Sylvia Kahn-Freund.

<sup>88</sup> Correspondence with Sylvia Kahn-Freund.

<sup>89</sup> See the entry on Otto Kahn-Freund in Werner Röder and Herbert A Strauss (eds), *Biographisches Handbuch der deutschsprachigen Emigration nach 1933* (Bd II, München: KG Saur, 1999) 585.

according to their daughter, a ‘regular academic life’. She (and Sylvia) accompanied Otto on work trips abroad, and Liesel maintained an interest in her husband’s work, including by providing scholarly support and being a ‘critical friend’. He typed mostly himself, but she had learned shorthand so could take notes. She proofread his work and he bounced ideas off her. Later, she was involved in the preparation of the extensive bibliography of his book, *Selected Writings*.<sup>90</sup> Both Liesel and Otto continued their political involvement through membership of the Fabian Society and the Workers’ Education Association. She ran his social and domestic life, including taking care of all shopping, clothing, and other household tasks (they had a cleaning lady later but no other staff). Otto could not drive so Liesel was the driver. When Otto was appointed to the Chair of Comparative Law at the University of Oxford in 1964 (which he held until his retirement in 1971), the couple lived in a flat in Oxford during term time.<sup>91</sup> Liesel found this period difficult as, while Otto had a lot of intellectual stimulation, there was no involvement for her in college and limited activities for wives.<sup>92</sup>

Otto Kahn-Freund died in 1979, not long after his retirement. In his obituary, Lord Wedderburn described Liesel as ‘at once [Otto’s] most stable support and his strongest defender, and at times a strong, if private, critic’.<sup>93</sup> Bob Hepple wrote that ‘Otto and Liesel were close partners, of equal and independent intellectual capacities, and she played an inseparable part in his achievements’.<sup>94</sup> While Otto was more reserved, Liesel was the heart and soul of the party, forthright in her views, and a force to be reckoned with.<sup>95</sup> According to Sylvia Kahn-Freund:

[T]hey were, in their own eyes, an equal partnership and though, looking at it from the outside, Liesel lived in Otto’s shadow I think that between them they were very aware that neither could have done it without the other. ... She was his interface with the real world. She was the everyday practical force. It was a complementary partnership. ... Otto, in particular, was very much aware of what his wife had given up to help him establish himself in their new country.<sup>96</sup>

<sup>90</sup>See Upendra Baxi, ‘Review: SELECTED WRITINGS (1978). By Otto Kahn-Freund’ (1983) 25 *Journal of the Indian Law Institute* 563.

<sup>91</sup>He and Liesel were naturalized as British citizens in 1940. See Naturalisation Certificate: Otto Kahn. National Archives, London, England; HO 334/158/16168.

<sup>92</sup>Correspondence with Sylvia Kahn-Freund.

<sup>93</sup><https://www.thebritishacademy.ac.uk/documents/1222/68p579.pdf>

<sup>94</sup>BA Hepple, ‘Sir Otto Kahn-Freund, Q.C., F.B.A 1900–1979’ (1979) 8 *Industrial Law Journal* 193, 193.

<sup>95</sup>Correspondence with Sylvia Kahn-Freund.

<sup>96</sup>Quote drawn from email correspondence and conversation with Sylvia Kahn-Freund.

After Otto Kahn-Freund's death, Liesel (and her daughter) provided support to scholars working on her husband's materials and contributed to an academic project looking at the history of the Berlin labour court.<sup>97</sup> Liesel outlived her husband by 21 years and died in September 2000 in Surrey.<sup>98</sup>

Looking at Liesel Kahn-Freund's life, we can say that, although she was not obviously a 'first' or a 'pioneer', she was nonetheless unusual in her political activism and, given her working-class background, in choosing to study law at a time when this was largely a conservative male domain, and the preserve of the middle and upper classes. She knew how hard life could be and was conflicted all her life about the comfortable life that she would eventually lead.<sup>99</sup>

At the same time, the way in which she supported her husband's work by taking on many unpaid labours including that of networker, caregiver and housekeeper, exemplifies the roles taken on by many wives at the time. Like many academic wives, she was a background supporter and team worker who provided valuable practical, scholarly and intellectual support to sustain her husband's career.

Viewing Liesel's life through the academic wives literature highlights the co-dependence of paid and unpaid work. In taking on responsibility for domestic tasks and care responsibilities, she enabled his paid work and gave her husband uninterrupted time, space and support to build his network, travel internationally, and, perhaps most importantly, concentrate on and pursue his research. One wonders whether his output would have been quite so prolific without her support and also how her career might have developed in different political circumstances. Overall, she was an indispensable facilitator of her husband's career, and, by extension, even though she was never able to formally pursue a career in law in her own right, she nonetheless made an important contribution to the development of labour law as an academic discipline which deserves recognition.

#### 4. POTENTIAL OF THE ACADEMIC WIVES' LITERATURE

Revisiting the role played by the academic wife in the construction of an academic career serves two main purposes. First, it provides a fresh perspective

<sup>97</sup>See the Preface to Lewis and Clark (eds), *Labour Law and Politics in the Weimar Republic*: 'After his sudden death on 16 August 1979 we continued to receive unstinting support from his wife, Lady Liesel Kahn-Freund!'

<sup>98</sup>Times death notice 16 September 2000 and General Register Office. *England and Wales Civil Registration Indexes*. London, England: General Register Office.

<sup>99</sup>Correspondence with Sylvia Kahn-Freund.

on labour law's historical origins. By focusing on Liesel Kahn-Freund's life we can contribute to the different projects which aim at increasing public knowledge about women who were not necessarily pioneers or 'firsts' themselves but who nonetheless made a valuable contribution to the establishment of the labour law academy. Many of the labours which Liesel Kahn-Freund took on were not particularly unusual for a wife at that time, but they epitomise what lots of wives did and, in many cases, continue to do, which is to take on a wide variety of necessary but hidden and unrecognised tasks to enable a professional career. This contribution as well as the intellectual and scholarly support which many of these academic wives provided to their husbands deserves recognition as part of an inclusive account of labour law's historical development. As Rackley and Auchmuty point out, '[w]e collate and tell the stories of women's history not only so that they are told, but in recognition of our collective history. Told properly, these stories not only correct accounts of the past, but inform and shape debates of the present and future.'<sup>100</sup> Adopting an historical lens therefore offers the researcher a way not only of making sense of the past but also of the present, as our understanding of the present depends in large part upon how we view the past. It allows us to highlight the different kinds of labour that went into the creation of labour law, thereby providing a richer context and understanding of the law's development. For lawyers, the opening up of their discipline to the findings of historians thus allows a more empirically refined, theoretically sounder, and holistic understanding of the history and nature of labour law's development.

Second, the focus in the 'academic wives' literature on the hidden, social and unpaid labour that contributed to an academic career, encourages scholars to recognise the value of unpaid work which underpinned (and in many cases continues to underpin) an academic (and other) career(s) and the many different forms that this can take. As Fudge points out:

Traditional accounts of work and labour law have ignored all of the unpaid domestic work, overwhelmingly performed by women, that is involved in maintaining living spaces, buying, and transforming the commodities used in the family, supplementing the services provided to family members by the public and private sectors, caring for people and managing social and personal relationships.<sup>101</sup>

<sup>100</sup>Erica Rackley and Rosemary Auchmuty, 'The Case for Feminist Legal History' (2020) 40 *Oxford Journal of Legal Studies* 878, 902 citing Erika Rackley, 'Judicial Diversity, the Woman Judge and Fairy Tale Endings' (2007) 27 *Legal Studies* 74.

<sup>101</sup>Judy Fudge, 'From Women and Labour Law to Putting Gender and Law to Work' in Vanessa E Munro and Margaret Davies, *The Ashgate Research Companion to Feminist Legal Theory* (London: Routledge, 2013) 330.

Yet such social and reproductive work, even though unpaid, is valuable because it is inextricably linked with and necessary to sustain paid work, and should therefore be recognised as part of an inclusive account of work. Certainly, the market-orientated university of the twenty-first century differs immensely from the institutions that were described in the 'academic wives' literature and from the university environment within which Otto and Liesel Kahn-Freund would have worked. Nevertheless, work within the legal academy, like work in the labour market more broadly,<sup>102</sup> continues to be constructed around a division of labour between social reproduction and production,<sup>103</sup> not dissimilar to that which existed at the time when many (male) academics had 'academic wives'. Institutional structures continue to be gendered in that they still fail to adequately recognise the wide-ranging hidden labours ranging from emotional and social labour to the provision of scholarly support which continue to support an academic career. Yet instead of having an 'academic wife', domestic work is either absorbed as a domestic

<sup>102</sup>Feminist labour law scholars from the 1990s onwards have shown how employment relations are gendered. For an overview of the literature and its development see Fudge, 'From Women and Labour Law'.

<sup>103</sup>The literature on gender and the (legal) academy has focussed, inter alia, on studying how working practices and trends in universities, including the shift to 'academic capitalism'—which describes the neoliberal transformation of higher education—have shaped women's experiences and impacted their promotion prospects. See Christine Teelken and Rosemary Deem, 'All Are Equal, But Some Are More Equal than Others: Managerialism and Gender Equality in Higher Education in Comparative Perspective' (2013) 49 *Comparative Education* 520. Scholars have also made compelling arguments about the gendered nature of work, and particularly the persistent distinction drawn between paid ('productive') labour and unpaid ('reproductive') labour which have hampered women in the workplace. For example, Richard Collier, 'Rethinking Masculinities in the Legal Academy: Men, Gender and Legal Careers (Or, Whatever Happened to the 'Nutty Professor?')' in Ulrike Schultz, Gisela Shaw, Margaret Thornton and Rosemary Auchmuty (eds), *Gender and Careers in the Legal Academy* (Oxford: Hart Bloomsbury, 2021); Fiona Cownie, 'The United Kingdom's First Woman Law Professor: An Archerian Analysis' (2015) 42 *Journal of Law and Society* 127; Clare McGlynn, 'Women, Representation and the Legal Academy' (1999) 19 *Legal Studies* 68; Margaret Thornton, 'The Changing Gender Regime in the Neoliberal Legal Academy' (2012/13) 33 *Zeitschrift für Rechtssoziologie* 235; Steven Vaughan, 'The State of the Nation: Diversity and the British Legal Academy' (2016) 50 *The Law Teacher* 255. On labour law specifically see Roger Blanpain and Ann Numhauser-Henning (eds), *Women in Academia and Equality Law: Aiming High—Falling Short? Denmark, France, Germany, Hungary, Italy, The Netherlands, Sweden, United Kingdom* (Deventer: Kluwer Law International, 2006) and Ania Zbyszewska, 'Women in Research and Academic Labour Markets: Revisiting the Issue Ten Years on' in Mia Rönmar and Henny Julén Votinius (eds), *Festschrift for Ann-Numhauser Henning* (Lund: Juristförlaget, 2016) 939–953. Others have considered women's work through the prism of equality norms and, in the face of persistent inequalities, have suggested that a focus on equality may no longer 'be enough'. See Joanne Conaghan, 'Gender and the Idea of Labour Law' (2014) 4 *feminists@law* 1 and Judy Fudge, 'Women Workers: Is Equality Enough?' (2013) *feminists@law* 2(2).

responsibility largely by working women to be squeezed around full- or part-time academic work, or is transferred to low-paid labourers who clean homes, tend to children, and prepare food for academic families. Even in the latter case, this labour needs to be arranged and sustained, thereby increasing the tasks that typically working women need to manage simultaneously. Either way, these multiple burdens affect productivity, limit opportunities for networking and international mobility, and minimise the uninterrupted time and space needed to concentrate on research. Moreover, much of the scholarly support, if at all, has shifted to and thus is provided by low-paid research assistants, often on precarious contracts, or has been absorbed into an academic career as university administrations have increasingly shrunk over the past years and personal computers have become commonplace. Of course, men have also been (negatively) affected by some of these developments. However, work, including in universities, ‘remains a deeply gendered activity’<sup>104</sup> and the academic wives literature challenges us to recognise the value of domestic work and other forms of scholarly support as forming part of labour law proper.<sup>105</sup>

## 5. CONCLUSION

This article sought to contribute to the existing record of academic wives’ lives and the work that they did for and with their husbands, thereby ultimately helping to shape academic disciplines. Such an approach brings to light the many labours predominantly performed by women which have supported and facilitated scholarly research in the past. The practical and emotional support offered by ‘academic wives’—including but not limited to typing, editing, writing, researching, hosting gatherings, networking, running the household, and caring for children and emotional well-being—freed up time for their husbands to pursue their intellectual endeavours. In taking on these roles, academic wives helped to construct the academy. We used this literature as a backdrop to focus on the life and contribution of Liesel Kahn-Freund, and, in doing so, to write her ‘into’ labour law’s history. By providing practical and emotional support thereby maintaining an atmosphere that

<sup>104</sup>Judy Fudge, ‘From Women and Labour Law’, 329.

<sup>105</sup>For a discussion of how to reconcile unpaid care and paid labour see the monograph by Nicole Busby, *A Right to Care? Unpaid Work in European Employment Law* (Oxford: OUP, 2011).

enabled her husband to focus on his research, she played a significant albeit largely unrecognised role in the creation of labour law as we now know it. This literature also encourages labour law scholars to re-evaluate what kind of labour is recognised as part of labour law and is the focus of future labour law scholarship.