Love and Law in Europe

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tion will be extremely difficult: most immigration laws prohibit reunification between TCNs and relatives that are not either their children or their own wife or husband. Parents are not included in the group of 'authorized' relatives.

36 Which in turn, favours so-called fraudulent marriages: people are marrying preferably EC nationals that satisfy all conditions to enjoy the right to family reunification.

37 See i.a.: KEDZIA, Z., KORULA, A. & NOWAK, M. (eds), Perspectives on an All-European System of Human Rights Protection. The Role of the Council of Europe, the CSCE and the European Communities (Proceedings and Recommendations of an International Conference), Poznan, Poland, 8-11 October 1990, Kehl, NP. Engel Verlag, 1991. Article F of the Treaty on the Union (1992) states explicitly that the Member States are determined to work together to promote democracy (F.1) and the fundamental rights recognized in the Convention for the Protection of Human Rights and Fundamental Freedoms (F.2).


39 Except in the case of collective expulsion (Article 4 of the Fourth Protocol).

40 Article 8 of the treaty provides for the right to respect for anyone's private and family life, his home and his correspondence, in a quasi-unlimited way, of all persons living on the territory of the Member-States to the Convention. The only restriction to the protection of that right is being the possibility for a public authority to interfere in case the interests of national security, public safety or the economic well-being of the country is involved, for prevention of disorder or crime, for the protection of health and morals, or for the protection of the rights and freedoms of others'.

41 Case of Abdulaziz, Cabales & Balkandali, judgment of 28 May, 1985, series A no. 94, p. 34 ff.


43 This is evidenced in the Treaty on the European Union of 1992 that reaffirms the decision of the Member-States to promote democracy based on the fundamental rights that are acknowledged in the Member-States and in the Human Rights Treaties.

Notes on Fassbinder's
"Angst essen Seele auf"

THOMAS SPIJKERBOER

As will be clear from most other contributions to this collection of essays, lawyers tend to think of a theme such as Love and Law as a theme of legal theory. Migration lawyers however know that love is at the heart of much of everyday legal practice, because love and residence rights have a lot to do with each other. Marie-Claire Foblet's article is an expression of that knowledge. In this essay, I want to explore the politics of migration, love and law. This exploration will follow in the footsteps of Angst essen Seele auf (Fear eat Soul), a film directed by Rainer Werner Fassbinder that was released in 1974. Because my analysis comes out of the film, I will first tell you the story.

The film is about the love affair between an older German woman, Emmi, and a young Moroccan guest worker whose name is Salem, but who is called Ali by all. Emmi goes into a cafe in order to shelter from the rain. The cafe, which is frequented only by guest workers, is run by two bartenders/prostitutes, Katharina and Barbara. When Salem does not agree to Katharina's suggestion that they go to her room together, she asks him if, then, he wants to dance with the old woman. Salem invites Emmi for a dance, and after the dance they have a drink together and talk. Salem escorts Emmi home, and Emmi invites Salem in because it is still raining. They talk. Emmi is a lonely widow doing cleaning jobs. Salem is a guest worker, living in squalid housing. Salem misses the last streetcar and he stays for the night. They end up spending the night together. The next morning they part, and at work Emmi discusses guest workers with her colleagues. The colleagues have lots of racist remarks to make, and are horrified of German women who have relationships with guest workers. Visiting her daughter Krista and her husband Eugen, Emmi tells them she has fallen in love with a Moroccan man twenty years her junior. The children react in disbelief, and Eugen remarks to Krista that her mother is beginning to become demented. Emmi then goes looking
for Salem in the cafe, but doesn't find him. When she returns home, he is waiting for her on the street.

They start living together. One night, the son of the landlord, Mr. Gruber, comes by. He is very polite, but says that sub-letting is forbidden and therefore Salem will have to leave. Emmi says that Salem is not a tenant but her future husband. In that case, Mr. Gruber does not see a problem. When Emmi explains to Salem that she got rid of Gruber by telling him that they were going to marry, Salem finds marrying a great idea. They celebrate their engagement in the cafe with Salem's friends; they dance. The marriage itself is celebrated by just the two of them in a very expensive restaurant. The waiter seize every opportunity to use French or English terms that Emmi doesn't know, stares at them and seems to be only just willing to serve them.

When other people hear of the marriage, they turn their backs. Emmi has invited her three children to her home in order to tell them of her marriage and to present Salem. When he enters, Bruno kicks in the TV and leaves; Albert calls his mother a whore and follows Bruno; and Krista announces that Eugen and she don't want to stay in this pig sty. The shopkeeper where Emmi has done her shopping for decades refuses to serve Salem, and when Emmi protests he also refuses to serve Emmi. The neighbours, who have been following the goings on with increasing abhorrence, tell Emmi to clean better because the staircase is so dirty these days, and do many more of these kind of tiny nasty things. And Emmi's colleagues completely ignore her, for example not noticing when Emmi asks them to pass her the knife during lunch. When Salem asks his friends from the cafe over to Emmi's house and they all play Ludo, the neighbours call the police. Two very kind policemen politely suggest to Emmi to turn down the music, not because it is particularly loud but because the neighbours complain. Emmi can't stand it any more and breaks down. Salem and Emmi decide to go on holiday. Emmi fantasises that when they return, everybody will be nice to them.

And that is what happens. The shopkeeper gets a lot of competition from the new supermarket next door, and almost forces Emmi in for a nice chat. The neighbours ask Emmi if they can borrow part of her cellar which she does not use, and when Emmi offers that Salem will carry some heavy things for them, they are delighted. At Emmi's work, one colleague has been dismissed because of petty theft, and they discuss strategies to get a pay rise. In this, the new colleague, a Yugoslav woman, is ignored in the same way Emmi was ignored earlier. And Bruno asks Emmi to baby sit his daughter so that his wife can start work. He has already sent a cheque for the TV.

Emmi not only orders Salem to carry the things for the neighbours, but generally starts to tell him what to do, wear, eat, like. When Salem wants cous-cous, she says that he should adapt to the German way of life. She shows him off to her colleagues, who touch him admiringly. Salem visits Barbara twice, where he has sex and cous-cous. When he doesn't return to Emmi's house at night, Emmi goes to look for him at his work, a garage. Neither Salem nor his colleagues directly acknowledge her presence. One of the colleagues asks Salem if this is his granny from Morocco.

The semi-final scene first shows Salem at the cafe, drinking a lot, gambling, and losing lots of money. Emmi enters, and sits down at the table where she sat in the first scene. She asks Barbara to put on the record they danced to, 'Hey black gypsy, come, play something for me'. Salem asks Emmi for a dance. They make up: Salem says he doesn't want other women but only wants Emmi; Emmi says she understands his desire for younger women. They want to stick together, together they are strong. Suddenly Salem collapses. In the hospital, next to the bed where Salem lies sleeping, the doctor explains to Emmi that Salem has a typical guest workers' illness: an ulcer. He will recover, but get another ulcer in half a year. Emmi says that that won't happen, because she will do whatever she can. The doctor wishes her good luck and leaves. The last image shows Emmi holding Salem's hand.

Salem's body

The first thing Salem says refers to his body. Explaining to Katharina why he won't come with her, he says 'Dick broken' (55). In the final scene in the hospital, Salem's entire body is broken in a way that, as the doctor explains, is typical for guest workers. Salem's body is fundamentally deficient, both sexually and as a body that can work.

Salem's body is eroticized. When Salem and Emmi meet, Salem dresses in a dark suit. During their first meeting, Emmi says to Salem that he should wear bright clothes, because dark things look so sad (58). He then begins to wear tight T-shirts, which emphasise his biceps and pectorals, and tight blue jeans that show a bulge in his crotch and highlight his round ass. Later, Salem's body is displayed for Emmi's colleagues. On Emmi's invitation, they touch his biceps and one of them appreciatively comments 'Terrific. And the skin is so soft' (91). Salem's body is the one we see naked several times. When Emmi awakes after their first night together, Emmi is dressed but we see Salem naked from his waist on; when, the evening before, he comes into Emmi's room the coat of his pyjama is unbuttoned. He walks around in Emmi's house in briefs and an unbuttoned dressing gown.
We see Salem's body entirely naked in two key scenes. After the marriage, but before the holiday, Salem takes a shower after work. Via the mirror, we see his body. Emmi walks into the bathroom, and also via the mirror looks at him. Salem returns the look. Emmi says 'You are very beautiful.' Salem laughs (77). Salem's body is admired and commented on by Emmi, in a way in which female bodies can be treated. It is unmasculine to have the passive role of the erotic spectacle, of an object. Silverman characterizes Salem's smile as one 'with the modesty of someone whose pleasure in himself is entirely dependent upon the pleasure another takes in him' (Silverman 1992, 140). This role of erotic spectacle, that can be put on display at the wishes of someone else (as in the scene with Emmi's colleagues), emasculates Salem. In Freudian vocabulary, it de-phallicises him -- in other words, it breaks his dick.

The other scene in which we see Salem naked is when Salem visits Barbara's home for the second time. Salem undresses. In the sex scene that follows, we would expect Salem to be a libidinous black man, a kind of sexual magician, as in western culture black men are eroticized as powerful and sexy bodies. But we see the reverse. In Barbara's home, Salem's body constantly is weak: his hands dangle next to his body, his head droops. When they have sex, Salem lies on top of Barbara, but he lies completely still. The thing that moves is not his penis but her arm caressing him.

In this way, Fassbinder argues that Salem's eroticization emasculates him. He can be eroticized and made into a spectacular object because he is the least powerful character in the film. Bell hooks, among others, has argued that in white culture, black men cannot be 'real men' because they cannot assume proper patriarchal functions, i.e. assert legitimate domination over women. The idea that black men are sex freaks is caused by the idea that, as they cannot be real men in patriarchal terms, they must shift their masculinity to the other source of masculinity: phallocentrism. That is why black dicks necessarily must be bigger; black men's masculinity depends entirely on their sexual prowess (hooks 1992, 87-113). Fassbinder makes this white mythology of the black sexual maniac present, but he denies it. Salem is impotent. He can't compensate for his emasculation by having sex. Sexuality is not a realm separate from power relations, but it is one of the realms where power is constituted and expressed.

Apart from being sexy, Salem's body can work. A first thing to be remarked is Salem's gallantry. He not only invites Emmi for a dance. He also helps her into her coat, keeps doors open for her, carries bags, holds up umbrellas, etc. But because of what takes place between Salem and Emmi, this gallantry more and more becomes subservience, work carried out on Emmi's orders.

Salem works at a garage. There, he says, Germans and Arabs are not equal: 'German master, Arab dog'. Emmi is indignant about this, but Salem says it is best not to think about it (56). But Emmi in her turn will use Salem as labour. She tells him to help the neighbour move her things after the holiday, and ends her order with 'Understood?', to which Salem replies 'Understand' (85) -- an exchange that is more typical of the relationship between boss and worker than between wife and husband.

Although of course it is very manly that Salem can carry all kinds of things, it is unmanly that he does so at the orders of his wife. This parallels the eroticization of his body. At the garage where he works, he also performs a masculine job. But he has the role of a dog vis-à-vis his boss, and the work and work relationships make him (and other guest workers) ill, as we see at the end of the film. Salem's body can be eroticized and it can work. He can be appreciated as a body. But the appreciation has as its condition and price his emasculation. Sex and work are the areas where Salem is appreciated in the role of the powerless.

**Emmi's body**

During the first scene, Emmi is referred to as 'the old one' by Barbara and Katharina (54-55). In the last scene but one, Emmi says she understands Salem's unfaithfulness because she knows how old she is (95). Salem is not a real man because he is black; Emmi is not a real woman because of her age.

During the first scenes, Emmi does not look beautiful. Her hair is a mess and she doesn't use make-up. When Emmi gets out of bed after her first night with Salem, at first she is not aware that he is in her bed. She turns around, discovers him, and rushes to the bathroom in panic. She looks at herself in the mirror. Then Salem is standing in the bathroom door and says hello. With tears in her eyes, she turns to him and they embrace. From that moment on, she starts doing her hair, probably dying it, putting lipstick on, dressing better. But her looks in no way resemble the amazing dress and make-up of Barbara, who has glittering dresses with deep cleavages, exuberant lipstick and eye shadow. Emmi is not a spectacle because she is too old for that. The camera never desires her; we only see her entirely dressed, the stills of her are stills of an old woman while those of Salem often show a sexy Arab. She can be desired, which comes as a pleasant surprise to her, but only by a man who is characterized by lack. Emmi's femininity has been seriously damaged. She is
not a virgin, she has been married before, and she can't have children any more. Therefore, she will have to do with a surrogate man and won't get beyond a fake femininity. To the outside world, the fact that she enjoys Salem's advances does not show that she is desirable, but that she is a whore, as her children, her colleagues and Katharina and Barbara say.

Emmi says that work is half of life (56). She works as a cleaning woman, but initially she doesn't dare to say that because she is ashamed of it. Cleaning women are rare these days, she says. She never learnt something proper (57). Her work accentuates her status as an older woman.

Here, as with Salem's body, the camera sees Emmi's body as dominant ideology sees her. She is not a real woman, and therefore the only explanation for the fact that Salem desires her is his own undesirability. The viewer is given the perspective of 'normality': older women are not sexy, non-white men are only sexy if they are objects, a relation between an older white woman and a young non-white man is impossible. But the film shows the devastating effects of this 'normality', and as we will see ends destabilizing it. Giving the spectator the normative perspective of 'normality' turns out not to be a way in which we are made to accept it. Quite the contrary: we are confronted with how we look.

The name

Salem calls himself Ali when he meets Emmi. Emmi replies by saying 'You're called Ali?' (56), and Salem says:

EMMI But what is your name really?
SALEM El Hedi ben Salem M'Barek Mohammed Mustafa.
EMMI Oh - it is very long, this name.
SALEM Yes. Everything in Tismilt has a long name. (57)

Emmi calls Salem by the name of Ali during the entire film. Thus, she calls him by the name that he has according to Germans who find his real name too complicated. The name here is not something of the surface; it is what Salem is ('Now I am Ali'). Salem does not try to give Emmi access to some real, authentic self, nor does he want her to try. He only can present himself to Emmi as what he is in German society. He can only be a Gastarbeiter, and in a way Ali is his 'real' name.7 For this reason, it is significant that Salem's 'real' name is mentioned twice in the movie. Once in the scene just quoted,

and once when Emmi presents Salem to her children as her husband with the words 'So! That is my husband. El Hedi ben Salem M'Barek Mohammed Mustafa. I call him Ali.' (73) Here Emmi, like Salem earlier, says that Salem has a name; and that she calls him by a different one. This distinction is made at the two moments Salem is presented: once by himself to Emmi, and once by Emmi to her children. Salem's incomprehensible name is something for the record.8

The name Ali is a stereotypical one. At that, it is incorrect. Ali is, by my best knowledge, a common Turkish name, and not a common Moroccan name - certainly not among the Berbers like Salem (60). Yet Salem uses it for himself. One may consider this as the internalization of racism; but I think something more complex is at work. Salem can only live under his long and incomprehensible name in the surroundings where everything has a long name - in his home town. In Germany, that complex thing is out of reach, not only for Emmi but also for himself. Fassbinder here explores an issue that he re-examined in later films: identity is not something real covered under surfaces, but it is inaccessible (and therefore in a way non-existent) if the surfaces don't allow for it. The identity of Ali is not any less real than Salem's.

Emmi also has two names. She is Mrs Kurowski -- which is the name of her deceased husband.9 This name (we never learn about her maiden name) indicates her foreign connections, as one of the neighbours remarks when she has for the first time 'caught' Emmi with Salem on the stairs of her house. 'But that one isn't a proper German herself. Kurowski -- who has a name like that?'

(59)

After marrying Salem, Emmi only once refers to herself by Salem's name, immediately after leaving the city hall.

EMMI Do you know what my name is now?
SALEM You long name.
EMMI Very long name. Emanuela ben Salem M'Barek Mohammed Mustafa. Sounds funny, no?
SALEM Much beautiful.
EMMI Well - beautiful? I don't know really.
SALEM Yes. Beautiful.
EMMI If you think so. (71)

Yet Emmi will remain Mrs Kurowski to everyone in the film, even though formally she has the funny name. She even doesn't really agree that it is beautiful. This situation is, let us say, offensive to Salem in two ways. First, she
doesn't find his name beautiful; with the last words just quoted she laconically dismisses his other, Moroccan identity. But what is more, the fact that she does not bear his name shows a lack, or an impossibility or even impotence on Salem's side. 'Normally', when a woman marries a man she becomes his, and this is symbolized by her new name. Salem cannot do that, he can't possess her because he is emasculated. But, reversely, as we saw, Emmi is not a woman to be possessed. She has been possessed before, therefore is not a virgin, and she can't have children anymore. She has already made the journey from her father's name to the name of her husband. This is something that can be done to her only once. This is the more logical because Salem's German self, Ali, does not have a family name, so there is nothing Emmi can take on, there is no way for him to possess her, just as there is nothing to be possessed.

Inclusion and exclusion

When Emmi enters the cafe for the first time, the people in the cafe, who all stand at the counter, stare at her. She sits down with her back to the door, facing the people at the bar, and gives them intimidated looks. When Barbara goes to her to ask what she wants to have, her first words are 'Excuse me, but (...) and she starts to explain that it rains outside (54). Emmi is excluded by the people in the cafe, and doesn't know how to react. Salem breaks through her isolation, and invites her for a dance. When they sit down afterwards, Emmi takes the chair that faces the door, with her back to the bar, while Salem sits with his face to the wall. In this way they defy Emmi's exclusion, not by confronting it or by trying to let her be part of the group, but by just doing what they like and in a way ignoring the others.

When, later that night, Emmi and Salem walk up the stairs, a neighbour who is constantly spying on the goings on in the staircase returns Emmi's money she lent, and stares at Salem through a grid that separates her part of the landing from the communal part. The stare is cold and hostile, and when Salem and Emmi have gone up she immediately goes to a neighbour who lives on the same landing, and they discuss what it is that Mrs Karowski (who herself is 'not a proper German') is doing with a black man at 9.30 pm (59). This is the first sign that Emmi and Salem will both be excluded, Salem because he is black and Emmi because she is with Salem.

The next day, Emmi discusses guest workers and relationships between German women and guest workers with her colleagues. The words of her colleagues are an explicit announcement to her of what will happen if she carri-
who kicked the TV in) needs Emmi as a baby-sitter; her colleagues need Emmi’s solidarity in their schemes for a higher salary and enjoy Salem's sex appeal. But then it turns out that by being included, Emmi and Salem become a part of the group of people that excludes. Emmi is co-opted by her colleagues into excluding the new Yugoslav colleague and the former colleague who committed some petty crime. Emmi seizes the opportunity to make the relationship with Salem into a hierarchical one, ordering him to do odd jobs, telling him what to wear, showing him off to her colleagues, and summoning him to stop whining about cous-cous and to integrate. Then Salem wants to be alone and leaves. There is no room for him anymore -- he simply is not German. He reacts by seeing Barbara, so by setting up a relationship that excludes Emmi. Leaving is a powerless way to exclude Emmi, but nevertheless a way to hit her where it hurts. Emmi has become dependent on him for feeling like someone; she may have been a lonesome miser before, but now she at least has power over one person, who shouldn't extract himself from her power. When she goes to Salem's workplace to look for him, she is excluded from this all-male environment. No one reacts to what she does or says; she is made fun of. During their last dance, Emmi and Salem acknowledge their mutual dependence. But then what Emmi in a way wanted happens: he becomes totally dependent on her by falling ill, she has total power over him now. But the power is useless, because Salem lying unconscious in a hospital bed is so powerless that it is no use having power over him.8

It is clear that the initial external rejection of Salem and Emmi is the glue to their relationship, and that when this glue vanishes the cracks begin to show. But small details in the scenes before the holiday make clear that the cracks were there all along. Emmi doesn't know how to deal with, and in many ways rejects Salem's being Moroccan. Salem can't cope with his emasculation which is illustrated by the fact that he 'only' can get Emmi (an old whore) or Barbara (a young whore).

During the final dance however there is a beginning of something substantially different. Emmi speaks of her comprehension for Salem's desire for a younger woman and says that that is not what really counts. She doesn't want to forbid him things, which is at least a partial renunciation of her hierarchically superior position. Salem chooses for her, and says he is so nervous, which is a beginning admission of the fact that he has some problems. This would have been romantic, but turns into melodrama when Salem falls down because of his guest workers' illness. Their last lines are statements on their communality. They are both in a weak position, but 'Together we are strong' (95). That is true in one way, and not in another one, as the next sce-

The law

The law takes on three different forms in this film. The first, marriage, is the apparition of law that we all aspire to. The second one, the tenancy agreement, represents its contractual form (we agreed to this). The third form, the police, stands for its repressive version.

Emmi first mentions marriage when she explains to the landlord that Salem is not subletting a room in her apartment (which is forbidden by the rent contract), but is going to be her husband. When she explains this to Salem, he finds marriage a good idea, and so they marry. The marriage is thus a strategy in order to stave off the condemning reaction of the outside world. Emmi and Salem try to gain respectability for their ethnically and generationally mixed, and therefore unacceptable relationship. They don't succeed in becoming respectable, however. In the restaurant where they celebrate their marriage, they are almost ignored, and are made to feel that they don't know how they should behave in such surroundings. The announcement of their marriage to Emmi's children has dramatic results: Bruno kicks in the TV, Albert says it's a shame and calls his mother a whore, and Krista calls her mother's house a pig sty. The shopkeeper, the neighbours and Emmi's colleagues all stick to their positions. When, after the holiday, people miraculously drop their racism, it is not because of the marriage but because Salem to them is a useful body.

One would almost say that the marriage doesn't make any difference, but that is too soon a conclusion. After the holiday, a neighbour refers to Salem as Emmi's husband (86) when he is carrying furniture. One of the main themes of the film, that Salem is only accepted on the terms of the surroundings, i.e. as a body, is relevant to the marriage as well. Emmi and Salem can only conceive of their relationship as proper in terms of marriage. They buy respectability by buying into a patriarchal institution. But they cannot dispose of this institution at will; it would be more appropriate to say that the institution disposes of them. Marriage does not allow for their non-standard relationship. Salem cannot be to Emmi what a proper man is to his woman, who
is not a proper woman either. This may be fine, as long as their relationship is not defined, as at the beginning of the film. When it is defined, the specificity of their relationship becomes a lack because neither of them is a proper member of her/his sex. Therefore, Salem has to look for what is missing (sex, cous-cous and alcohol) elsewhere. In this way, marriage makes a lot of difference. Because their relationship is impossible as a marriage, it is impossible in marriage. Marriage tears Emmi and Salem apart.

The tenancy contract is one of the things that forces Emmi and Salem to conform, by marrying in order to evade the prohibition of subletting. Gruber displays no racism whatsoever—he even says good night to Salem (69). At first, he points out that subletting is forbidden by the contract. In this way, he has no doubt acts as an agent of the other tenants. But he is polite, and when Emmi does some window-dressing (‘we will marry’) he admits that this is something completely different. He is, however, the external force that brings Emmi and Salem to marry; he is a force of conformity. When, later, the other tenants ask him if he can’t do something about this rubble (Emmi and Salem), he says he can’t discover anything improper (82). Gruber has never been racist, but he illustrates the futility of just not being biased. He is part of the system nevertheless—and, of course, collects the rent.

The police is the third form of the law, and represents its repressive aspect. The policemen are called by the neighbours who complain about the noise that Emmi, Salem and his friends make when they play Ludo. But, as one of the neighbours remarks in shock, the police officers have long hair. In fact, they behave extremely nice. They say to Emmi they’re sorry, but the neighbours complain... They leave immediately. Emmi says: ‘They’ve set the police on our neck’ (80-81). This is the velvet glove. The police might do worse things; that is the threat Emmi immediately feels. They don’t, but they still convey the threat. They also, politely and all, convey the racism of the neighbours. The fact that they seem to realise this, and make excuses, does not make that any different. Like the landlord, the police can afford not being racist at all.

Fassbinder here portrays the law not as a purely repressive force, although he makes one reference to the threat of physical violence. In the context of its time, it was rather polemical to portray policemen as basically decent people. It was more commonplace on the German left to depict them as pigs who enjoyed beating up the proletariat. But in this film, law mainly has its power effects because people aspire to it, see themselves as part of it, and find it a respectable thing. Law is depicted as an ideological phenomenon more than as a source of repression in the literal sense. The power of law comes from its effect on people’s minds, from the fact that people are willing to conform to, and even to long for the oppressive community standards that it embodies.

The politics of love and law

Fassbinder has been criticized vehemently because, according to his critics, he depicted a world of oppression without possibilities of resistance. The critics would have preferred Fassbinder to show the oppressed of the world the way out. This can be illustrated by how Fassbinder represents economic exploitation. In tune with the leftist rhetoric of the period, Salem and Emmi are represented as exploited workers. But Fassbinder’s analysis doesn’t end there, because these exploited workers are not innocent. Emmi exploits Salem’s labour power, and at her work she joins in excluding the new Yugoslav colleague. In the scene at Salem’s work, Salem is part of a male world that excludes Emmi, and he hires a prostitute in order to exclude Emmi. Economic exploitation, like other forms of exclusion, has many sources, and there is no outside of this system. There is no clearly definable class or group of people, such as the proletariat, the intelligentsia, or the revolutionary avant-garde, that can carry the banner forward. Richard Dyer, elaborating on the ‘reactionary implications’ of Fassbinder’s films, finds him guilty of ‘left-wing melancholy’, which is a view of life that ‘recognises the exploitative nature of capitalist society but is unable to see any means by which fundamental change in this society can take place. (…) it does not see the working class as the agent of historical change’ (Dyer 1979, 55). Fassbinder’s critics presumed that for radical politics it is required that there is one unpolluted entity which can be the source of unalienated political action.

Fassbinder’s political activism is located precisely within this claustrophobic setting. He analyzes the processes of exclusion, oppression and alienation, and emphatically denies that one can withdraw from them. But in the world he creates, that analysis is not the end but a beginning. This becomes clear from the role of dance in this film.

There is one way out for the bodies of Emmi and Salem, that are represented in a way that seems to be despairing. At the beginning, in the middle and at the end, they dance to the tune of ‘Hey black gypsy, come, play something for me’, sung by a Zarah Leander-like voice (55, 70, 95). There can hardly be any
doubt that Salem is the black gypsy, and Emmi the me. This song title doesn’t deny who’s who. But it is the occasion for the meeting, the celebration of the decision to marry, and the reconciliation, for the first and the last conversation, and for being together unconditionally. These moments of genuine contact occur in a marginal place: the guest worker’s café and/or brothel. As most notably Salem’s ulcer attack makes clear, the margin is not a safe refuge. But dancing is an act of defiance. Moving, intently and carefully, aware of each other’s shortcomings (Emmi can’t dance, and Salem clearly also doesn’t know how to really), and this to a tune that is the articulation of white woman’s racialized longing for an exotic male – this is not a safe refuge but a small mutiny. Dance, here as in many other Fassbinder films, is an intimate act that is dependent on and sensitive to (in the terms of the period) ‘the objective circumstances’, that makes a difference not despite those circumstances, but because it takes them on and thereby transforms them.

Fassbinder analyzes, in Foucault’s term, the micro-physics of power. Fassbinder wrote that he thought that love is the best, sneakiest and most effective instrument of social oppression (quoted in Fassbinder 1990, 184). But this does not only show how omnipresent power is. It also shows how many possible points of resistance there are. And what is more: it reveals that people are actually using them. The identities and subject position for which the law recruits us are not simply lies, because in a very physical way they are truths to us. ‘Positive thinking’ does not efface the emasculation of migrant men; it does not do away with the reduction of women to their reproductive and sexual function. Praise of multiculturalism does not help against the clashes that bicultural relationships lead to – both with the external world and between the partners involved. It is more productive not to deny the reality of law’s power, and to grasp the glimpses of transformation that we can get by seeing and enjoying the resistance that people put up in their mundane everyday lives. This does not mean however that Fassbinder abdicated from politics in a broader sense and only opted for politics at a marginal micro level. But the dance of Emmi and Salem is where it all begins. As Fassbinder said about Angst essen Seele auf:

I want to show now how you can resist and can make it somehow nevertheless. Today I tend to believe that when you just reproduce these depressing circumstances, you reinforce them. That is why you should make the existing circumstances transparent (‘durchschauen’), so that it becomes conscious that they can be overcome (Spaich 1992, 266).

Yes, we wanted to try to keep it (the story, TS) so simple that people

would keep thinking: All sorts of things would be possible. I don’t consider human beings incapable of change. It’s built into the structure of my film that people begin to see, Yes, it is better if things are a bit different. And if you think it out a little more, things can even be better. I’m not capable of providing a grand ideological scheme, and that’s not my job, either; other people are better trained and equipped for that. What interests me are these little opportunities, because I know something about them and find them stimulating (Fassbinder 1992, 12).

Notes:
1. This a revised version of a talk given at the seminar on Love and Law in Europe, organized by the Faculty of Law of the University of Copenhagen on 26-27 April 1996. I am very much indebted to Betty de Hart, who commented on an earlier draft of this text.
2. Page numbers refer to the script, published in Fassbinder 1990, 51-96. Quotes are my translation from German.
3. Salem here indeed uses the word Herr, from the Nazi vocabulary Herrenvolk etc.
4. This is Mistrial, where Salem comes from, 56.
5. It is significant that the translations of the film’s title stress the name. In English, the film was released as Ali: Fear Eats the Soul, in French as Tous les autres s’appellent Ali (All the others are called Ali). The film was released in the Netherlands at that time as Alle Turk en heten Ali (All Turks are called Ali, Förster 1993, 38), but now foreign films are re-released under their foreign name in the Netherlands.
6. This gets some more sharpness when we remind ourselves that the actor playing Salem had the same complicated name in real life and was Fassbinder’s lover at the moment the film was made.
7. Salem is a Gastarbeiter; Emmi’s first husband was a Fremdarbeiter, which is the term (or name) used for young men from the countries occupied by Nazi Germany who were forced to work in German industries.
8. This ending is a close parallel to the ending of Martha, where a sadistic husband regains his total power over his masochistic wife when she has an accident and, in the final scene, sits in a wheelchair pushed around by him.
9. It seems that Fassbinder collected the rent from guest workers living in the squalid lodging houses of his father after he had been struck off the medical register, Hayman 1984, 13.
10. See e.g. Silverman 1992, 155.
11. Dyer later retracts a bit from this all-out attack on Fassbinder. He owns up that because Fassbinder is influential, he’d rather have Fassbinder on my side” (Dyer 1979, 60). He grants Fassbinder’s films a certain ‘effectivity’, but this is ‘an effectivity that cannot be automatically read off from the films themselves, an effectivity moreover that the film does not, as it were, deserve.’ (ibid, 55). This kind of criticism is relevant to Fassbinder’s films, because it represents precisely the kind of orthodoxy that he attacked.
Hagbard and Signe. A Medieval Tale on Tragic Love.
From the History of the Danes

SAXO GRAMMATICUS

There were once women in Denmark who dressed themselves to look like men and spent almost every minute cultivating soldiers’ skills, they did not want the sinews of their valour to lose tautness and be infected by self-indulgence. Loathing a dainty style of living, they would harden body and mind with toil and endurance, rejecting the fickle pliancy of girls and compelling their womanish spirits to act with a virile ruthlessness. They courted military celebrity so earnestly that you would have guessed they had unsexed themselves. Those especially who had forceful personalities or were tall and elegant embarked on this way of life. As if they were forgetful of their true selves they put toughness before allure, aimed at conflicts instead of kisses, tasted blood, not lips, sought the clash of arms rather than the arm’s embrace, fitted to weapons hands which should have been weaving, desired not the couch but the kill, and those they could have appeased with looks they attacked with lances. Now I shall return from this byway to my main narrative.

At the beginning of spring Alf and Alger resumed their pirating expeditions. They were navigating different parts of the ocean when they came with their hundred ships on Prince Hamund’s sons Helvin, Hagbarth and Hamund. Battle was engaged and only as the darkness of twilight parted their blood-weary hands were the soldiers ordered to keep truce during the night. The next day this was confirmed for good by a mutual oath; so many injuries had been sustained on both sides in the precious day’s fight that there was no possibility of combat being renewed. The participants were driven to make peace when equally-matched bravery had exhausted them.

During the same period Hildigisl, a man of noble Teuton family, requested the hand of Sigars’s daughter Signe, confident in his handsomeness and rank. His insignificance brought out her utter contempt; to her he seemed spineless and to be building his fortunes on the worth of others. It was his proved reputation for mighty deeds that had specially turned her affections towards Haki. She had a higher regard for the valiant than the feeble and admired decorations for achievement more than a decorative face; all the