



Deutscher
Juristinnenbund
Vereinigung der Juristinnen,
Volkswirtinnen und
Betriebswirtinnen e.V.

Geschäftsstelle / Office:
Anklamer Straße 38
D-10115 Berlin
fon: ++49 – (0)30 – 443270-0
fax: ++49 – (0)30 – 443270-22
geschaeftsstelle@djb.de
<http://www.djb.de>

Labour Market, Social Security and Equal Opportunity Policy

Women and Poverty

Women are already affected to a disproportionate degree by poverty, with less money at their disposal than men in every age group – whether income or employment compensation (e.g. health insurance, unemployment benefits, retirement pensions). This development will be exacerbated by social policy reforms that privatize risks previously covered on a solidarity basis and that roll back compensatory mechanisms of the welfare state. A few regional model projects will have little effect if legislation for all of Germany cuts benefits that used to support primarily women.

Single parents, a greater percentage of whom are women, depend relatively frequently on the "livelihood support" provided by the social welfare system. Social welfare is a tax-based instrument for combating poverty and is the last safety net for securing a minimum livelihood. One reason why the percentage of women receiving social welfare is so high is that family-oriented social benefits are too weakly structured or have been reduced. Some examples are the following:

- Tax benefits for single parents have been greatly reduced.
- Childcare subsidies for the first two years of a child's life have been reduced in real terms during this legislative period due to a new method of calculation.
- Child raisers who do not have jobs with social benefits may receive free health insurance as long as they are legally married and the 'provider' has employment with these benefits. An end to the marriage means an end to free insurance protection for the child raiser, usually the mother. Following a lengthy maternity leave, she has little opportunity to find a job with social benefits and is dependent on alimony payments from her ex-husband. These payments are seldom enough to meet costs. Yet following a divorce, the single mother now also has to pay health insurance fees. Social security legislation thus clearly privileges marriage.
- Although employees over 50 have been able to make a 'flexible transition to retirement' now for decades, supported by both these employees' social security contributions and considerable tax subsidies, there have never been any comparable programs that give younger employees a paid period of time to raise children.
- Childcare at both state and private facilities has become more expensive for many parents as a result of worsening financial conditions at local levels. Several German states require a set fee to be

paid independently of income, which may only be reduced in cases of hardship. This means that women with low incomes must pay a higher percentage of their wages for childcare.

- Childcare costs are only tax-deductible above a certain amount and then not in full. Current tax regulations therefore discriminate against persons with low income levels, which means primarily women. In many cases, the result is no tax relief at all, or only slight relief even for high earners.

Women's associations have long advocated that the income tax system be thoroughly restructured. They call for the current practice having spouses 'split' their combined income evenly – which supports marriage – to be replaced by individual taxation with child support. 'Splitting' distributes the pre-tax joint income between the two spouses in a fictitious manner. Married couples with a single earner are the major beneficiaries of the resulting lower tax bracket, completely independently of whether they have children.

The entire social security system should undergo further development with a view towards raising children. This should include considerably higher levels of child support in the form of dynamic benefits that offer a real replacement to income. Expanding institutional childcare, especially for children under three years of age and during their school years, is the right strategy. Mere statements of intent, however, do not suffice. The steps taken thus far have been half-hearted, because the states and/or municipalities fear additional costs. In any case, institutional childcare must be affordable even if it does not receive comprehensive state support. Furthermore, job opportunities for women and especially single parents should be improved by targeted wage subsidies and a general maternity protection fund that all businesses contribute to.

Elderly women, especially those in the former West Germany, receive considerably lower self-earned retirement pensions than men. On average, state retirement pensions for women are only half as high as those for men. These low pensions do not lead directly to old-age poverty in the sense of the need for welfare, because women usually receive supplemental widows' pensions. But life-long marriage as a means of social welfare reflects social reality to an ever smaller degree. A modern understanding of women's lives assumes economic independence when it comes to retirement pensions as well.

It is feared that old-age poverty will increase for women in the future. The main cause of the low level of women's self-earned pensions is the German pension system itself. The overall pension level is a function of the average income of all jobs in the social security system. Because women often have jobs with below average compensation and/or interrupt their jobs to raise children or care for relatives, their pensions are also at a below-average level. This is the consequence of an insurance principle that does not contain sufficient social elements.

Federal reform legislation (1992, 1999 and 2001) has further discriminated against employed women. Periods of unemployment, especially long-term periods of more than a year, have a negative impact on women's pensions in particular. This is due in large part to the fact that partners' incomes are used to calculate the level of unemployment assistance. This regulation, which disproportionately affects women, considerably reduces unemployment assistance and thus also pension level eligibility for the women affected. The state social security system itself is weakened by the increase in non-insured jobs, because this means that the level of incoming contributions also declines.

In sum, the reforms to date have decreased the overall pension level, and specifically worsened retirement coverage for women. Even though not exactly modern in terms of equal opportunity policy, non-contributing widows' pensions for mothers will remain a necessary measure for reducing the risk of old-age poverty.

Since 2001, the state has been subsidising private old-age retirement plans, known as "Riester" pensions, to partially replace state social security benefits. These subsidies offer unmistakable tax benefits to high earners, and are used accordingly. But below-average earners, who are disproportionately women, often cannot afford to make additional old-age insurance payments. The maximum state subsidy level of 154 Euro, which will be reached in 2008, requires participants to make their own contributions first.

Because this capital-based private insurance program does not include any compensation for raising children or caring for relatives, or for low-income or part-time employment, future benefits for women from this type of program will be especially low. The resulting 'holes in the safety net' cannot be closed by part-time jobs or unemployment compensation. Despite considerable criticism from women's organisations, state-subsidised private old-age-pension plans do not offer unisex rates at present. This means that women have to pay higher premiums for the same benefits due to higher statistical life expectancies. Different rates for women and men in state-subsidised private retirement plans are only being prohibited as of now, with no retroactive effect on existing contracts.

A fundamental requirement in reforming the pension system is to re-introduce and/or extend a solidarity-based payment distribution structure. Concrete pension models already exist that calculate for the effects of this type of distribution. Above all, however, the number of jobs that do not offer benefits (and thus do not require contributions) must be greatly reduced in order to ensure the continued existence of a solidarity-based state pension scheme.

Women and Business

Equal opportunities in the private sector

The German government and leading business organisations signed an agreement on 2 July 2001 to promote equal opportunities for women and men in the private sector, marking the first time that these organisations have committed themselves to an active equal opportunity policy. The evaluation report presented in January of 2004, however, shows that the agreement remains largely unimplemented in companies, contradicting statements by politicians and business leaders.

Female employment

The report correctly notes that the number of employed women has increased since 2000, but does not mention that the total volume of their working time has declined over the same period. These two facts are a result of the considerable increase in jobs taken by women that do not pay living wages. Politicians and business leaders celebrate this expansion of mini-jobs as promoting women, and overlook the threat to livelihood that low-wage jobs represent both before and after retirement.

Educational levels

The number of women starting college decreased by 2.3 percent in 2003, dropping below 50% once again. The generally satisfactory picture of women's educational levels, however, does not translate into adequate professional opportunities. This can be traced to a refusal to allow equal opportunity and non-discriminatory employment conditions for women, and will not motivate women to pursue challenging courses of study.

Equal opportunity measures in business

Two thirds of all jobs are at companies that have no equal opportunity policies, whether based on formal agreements or voluntary measures. By far the most commonly mentioned measures refer to 'family friendliness', although flexible working hours are often shaped by overall company needs regarding employee scheduling and only incorrectly equated with 'family-friendly' hours. A survey commissioned by the Hans Böckler Foundation and the German Federation of Trade Unions confirmed that human resource policies based on equal opportunities are hardly being pursued at all at present. Only one quarter of the companies surveyed keep gender-based personnel statistics at all, and only 2% keep statistics that break down hierarchy and compensation by gender. Given this inadequate information base, it is no wonder that in two thirds of the companies questioned, the percentage of women on the staff, in management, and in technical positions has not changed over the last three years.

Equal pay

Despite the legally stipulated requirement of equal pay for work of equal value, women earn an average of 30% less than men. This is due to the discriminatory structure of collective labour agreements and company compensation systems, which systematically undervalue women. The position taken by the German government that lawmakers cannot intervene here is not accurate. Parties to the collective labour agreements must comply with the equal pay requirement just as much as individual employers. Given the gender-specific discrepancy in compensation, lawmakers are therefore required to ensure that parties to the labour agreements as well as companies introduce suitable measures to implement the requirement in practice. It is not enough just to formulate guidelines.

Labour market reforms

Current claims that the unemployment rate for women is now lower than that for men does not reflect reality but rather a change in the statistical calculations – which discriminates against women. Since

1999, low-wage job holders and parental leave-takers have been considered to be employed for the purposes of the statistics. In connection with the recent labour market reforms, there has been an enormous increase in the number of low-wage or mini-jobs that do not pay enough to live on and do not provide social benefits. Like the child-raising periods, they constitute a women's domain and arise in job sectors that are classically female (retail, cleaning, health and social services). With full-time jobs now being converted to mini-jobs which are more financially advantageous for business, employment opportunities for women are becoming worse in real terms although the statistical unemployment rate is lower. Thus the quota of jobs for women, which is based on this inadequate statistical foundation, is a false index of the actual promotion of women vis-à-vis men.

The labour market reforms (a total of four laws for modern service providers on the labour market and supplementary legislation from 2002 and 2003) have had a particularly negative effect on women in the former East German states that have especially high percentages of women among their long-term jobless. The eligibility period for unemployment benefits in the form of income-independent wage replacement (*Arbeitslosengeld*) has been considerably shortened to only 12 months (18 months for older individuals). The subsequent current form of unemployment assistance (*Arbeitslosenhilfe*), which is linked to previous income levels, will be discontinued as of 2005. This will be replaced by a single compensation program for everyone with generally lower benefits. In parallel to this, greater weight is already being assigned to assets and partner income in the determination of benefits. The consequence is that especially women whose spouses or domestic partners are employed will receive no more benefits at all and will no longer be registered as unemployed. They will not only lose their economic independence and have to depend on the traditional model of the 'provider marriage'. Their chances for being re-integrated into the labour market with the help of the so-called 'Job Center' will also be extremely poor. Because they do not number among the 'expensive' unemployed, the authorities will not be inclined to spend their limited funds on reintegrating them. Ultimately, internal priorities regarding the success of integration will greatly reduce active promotion measures for the job market. Part-time jobs for people re-entering the job market after leaving it for family reasons are no longer even offered in regions with high unemployment levels. Especially problematic is the fact that in contrast to before, unemployed persons who do not accept low-wage non-benefit jobs are threatened with sanctions. It is to be feared that this will affect primarily women. Then, however, they will have even greater problems finding work with a living wage, and at the same time will have to accept disadvantages in the other retirement/insurance systems.

In sum, the labour market reforms will affect women negatively. Isolated improvements for social welfare recipients are outweighed by massive deterioration for the majority of women who used to receive unemployment assistance. The general strategy behind the policy of both the current German government and the opposition parties, namely to provide state support for expanding the low-wage sector, must be called into question.

Institutional mechanisms, such as structures and measures for participation by and promotion of women

Gender mainstreaming

Despite being anchored in the joint ministerial rules of procedure, gender mainstreaming as an overall guiding principle has thus far had no major effect on government/administrative decisions. To the extent that there has been any reference at all to evaluating major legislation of recent years in terms of the significance or consequences of equal opportunity policy, it is always asserted that the legislation meets these requirements – without any justification or presentation of the evaluation procedure. Gender mainstreaming has yet to become reality.

Law on appointment to federal committees (Bundesgremienbesetzungsgesetz)

For the law on federal committees to be implemented when vacant positions are filled, there must first be an awareness of the problem that women are underrepresented. Women's organisations call for all federal and state ministries to appropriately document the number of women and men on committees and similar bodies or when assigning, nominating or appointing members. In addition, the potential for women to occupy qualified positions must be made evident. A file with comparative international data on committees, such as the European Parliament is calling for, would be useful here. Also, comparable

regulations in other Western European countries – such as the Belgian regulation that strips a committee of its advisory status if more than two thirds of its members are of a single sex – should be assessed for application in Germany.

Equal opportunity policy institutions at state level

There is a decline in the significance accorded to equal opportunity policy departments and portfolios at the state level in Germany. They are being dissolved (e.g. Hamburg), split up (Hessen, Schleswig-Holstein), or demoted within the hierarchy (Thuringia). A disastrous development is underway in which family policy is supplanting equal opportunity policy, without any specific consideration of equal opportunities or promoting women. This is also true to an increasing extent at the federal level.

4. August 2004

Margret Diwell
President

Prof. Dr. Doris König
Member of the Commission for Public Law,
European Law and Public International Law