
Committee on the Elimination of
Discrimination against Women
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Concluding comments of the Committee on the Elimination of
Discrimination against Women: Federal Republic of Germany

Initial report

51. The Committee considered the initial report of the Federal Republic of Germany (CEDAW/C/5/Add.59 and Corr.1) at its 152nd and 157th meetings, on 22 and 25 January 1990 (CEDAW/C/SR.152 and 157).
52. The representative of the Federal Republic of Germany, in introducing the report, noted that the composition of its delegation to the Committee with a Federal Minister, two Ministers of State and officials from Federal and provincial ministries indicated the importance attached to the subject by the Government. She noted that the Convention in its tenth year had been given considerable publicity. The report had originally been prepared in 1988, but the availability of additional information, particularly from the most recent census, had led the Government to prepare an addendum which, unfortunately, arrived too late to be distributed in all languages.
53. The current situation of women was that equality was generally recognized de jure but that social reality continued to lead to de facto discrimination. Equality was guaranteed by article 3, paragraph 2, of the Federal Constitution, a clause that had been inserted in 1949 through pressure by women members of the constitutional convention. It was a directly enforceable right binding on all branches of government. Civil law had gradually been brought into line with that provision, as described in annex II of the addendum.
54. The de facto situation was not as good, with shortcomings most prevalent in public and professional life and in education, as the statistics found in annex I of the addendum demonstrate. Women were underrepresented in politics and government at all levels, even though they were in the majority of voters. The same was true in business enterprises, with less than 1 per cent of company directors being women. In universities, especially in the sciences, although women were well-represented among new students, they were much less among teachers and even less among professors and holders of endowed chairs.

55. Women constituted a major part of the workforce, comprising 39 per cent of gainfully employed persons and showing an increase especially in the 20-50 year age group. There had been a shift among professional sectors towards the services and there was widespread resort to part-time work by women (one third of working women were part-time). Structurally women were in the lower pay levels, worked fewer hours, did less well-paying shift work and rendered fewer years of service.

56. In education, women were attaining parity but positive actions to encourage women to take up non-traditional occasional training had not yet broken down concentration of women in effectively sex-segregated fields. As a result, women had fewer options than men.

57. The reasons for the de facto inequality rested in the prevalence of traditional task allocations, especially in rural areas and among older citizens. Women's working conditions impeded their full participation in political life.

58. To improve the situation a network of institutions had been organized to help establish equality at all political levels: the Ministry of Youth, Family Affairs and Health at the federal level, commissioners in all Laender governments, and a great number of offices in local governments.

59. The Government had taken a number of steps to implement the provisions of the Convention. There had been a broader interpretation of the concept of discrimination to include indirect discrimination. A number of special measures, as called for in article 4, had been implemented. Guidelines had been developed for the public sector, as well as the private sector. In politics, a number of political parties had established quotas or targets to increase the percentage of women. Efforts had been made to reduce stereotypes and sex discrimination in textbooks and, through voluntary efforts, measures were being taken to reduce stereotyping in advertising. The federal parliament had been dealing with trafficking in women and efforts were being made to deal with the problems of violence against women, the most serious form of discrimination, through the enactment of laws and the provision of shelter and counselling centres. Women were being encouraged by information campaigns to study in non-traditional schools and co-education approaches were being reviewed to ensure that they did not discriminate. Studies relating to matters concerning women were being encouraged and were held to be of equivalent academic standard as research on other important issues.

60. A particular effort was being made to help women and men reconcile their needs for both family and career, an aspiration expressed by 80 per cent of young women. That was being done through a combination of child-raising allowances that allowed women to leave the workforce temporarily, child care facilities, placing part-time and full-time work on an equal footing and reintegration into the workforce.

61. In general comments, members of the Committee noted that the Federal Republic had made a single reservation on the Convention and questioned why and whether it was likely to be withdrawn. The lateness of the additional information was noted and although some found it very useful, others indicated that had it been more timely the work of the Committee would have been aided, since the addendum provided much missing information. The frankness of the report was also noted. An absence of information about women's organizations and movements was noted and information on their structure and relationship with other institutions such as parties and labour unions requested.

62. On article 2, questions were raised about the question of abortion, which was considered illegal, and an illustration from legal practice was requested. An indication of which authorities were responsible for imposing sanctions for non-compliance with the Convention was requested, both at the federal and lower levels. The extent to which foreign women workers, especially from Turkey, were covered by provisions was asked. Finally, if, as the report stated, the basic law did not apply to "private" acts of discrimination, the question how they were handled was asked.
63. In relation to article 3, further information on the functioning of the decentralized implementation structure was requested, including the extent to which women participated in its workings and the kinds of demands or requests made on the machinery by women.
64. Several experts noted the guidelines for private companies that had been developed relative to article 4 and requested information on its impact. The question was raised of whether the special measures had led to resentment, as well as whether special measures were being taken to increase the number of women at decision-making levels in the light of the current low proportion. Further information on the special efforts to upgrade part-time work was requested.
65. More detail on the results of efforts to overcome stereotypes, in the context of article 5, was requested, including questions of shared responsibility for child-raising, the number of fathers taking child-raising leave, sex education in the schools and the elimination of stereotyping in advertising, as well as more generally in the mass media and on programmes to fund shelters for battered women.
66. Regarding article 6, the extent of prostitution was requested together with the results of studies on the subject and of programmes for prostitutes. Information on programmes to combat AIDS among women was requested.
67. In terms of article 7, more information was requested about the working of the national machinery, including its composition, budget and linkage with other bodies both at the federal and the provincial level, including the parliament, the Federal Ministry, trade unions and political parties. The role of the women's section of the ministry within the overall programme of the ministry needed elaboration. It was noted that the information provided did not give a full picture of the extent of women's political participation; and it was asked whether there were any special programmes to increase the number of women, either by the parties or by the Government. Information on the extent to which women held management posts in the trade unions and on the extent to which women held posts in the judiciary was requested.
68. The criteria for selecting women to participate in international work was requested along with an indication of how many women worked for the United Nations system and specific measures taken to increase the participation of women in national delegations to international meetings, as called for in article 8.
69. With reference to article 9, the length of time necessary to revise the nationality law was requested together with a confirmation that women had the same right as men to confer nationality on a foreign spouse.
70. On education, as per article 10, the question was raised whether there was a special campaign to encourage women to benefit from scholarships and to follow

unconventional careers, and the percentage of illiterate women as compared to men was also requested.

71. In the context of article 11, noting that the labour court had assessed damages for rejection from jobs because of discrimination, the frequency of those rejections was queried. Further information on the process whereby national labour laws were being revised to conform with those of the European Community and its effect on women was requested, as was whether the opening up of European frontiers required any special efforts for women. Interest was shown in laws on the effort to make part-time work equal in legal terms to full-time. It was noted that the increase in total number of women employed had not been great and further explanation of that was requested, as well as reasons why women constituted a larger proportion of both those employed and those unemployed. It was noted that under the law some 20 occupations were not open to women by statute and the list of those occupations and the statutory basis for denying women access to them were requested. Further information on the outcome of efforts to revise industrial safety laws was requested including an indication of its likely effect on women's employment. The question of the meaning of "light work" in practice and in monetary terms was made. Noting that the Federal Republic of Germany had ratified ILO Convention No. 100 in 1956, the delay in achieving equal pay between the sexes was noted. Similarly, information on how the parental leave system worked and on the prospect of returning to work with rights was requested. Questions were raised about working conditions of foreign women workers as well as their rights.

72. In terms of health, as per article 12, the incidence of industrial accidents and industry-related diseases among women was requested, as well as information on programmes to make people aware of AIDS, to deal with drug addiction and to deal with the health needs of migrant women.

73. On article 15, a question was raised concerning the policy towards housewives' freedom of movement and whether a provision for special payment of household work existed.

74. Regarding article 16, the issue of policies towards problems of elderly women, especially those divorced late in life, was raised and information about the question of provision of pensions and other benefits as part of a dissolution of marriage was requested. The status of responsibility for an out-of-wedlock child and single-parent families generally in terms of the law was requested. Noting that there were three régimes regarding property rights, a question about which régime was more frequently selected was raised. Finally, since the family name in a marriage could either be that of the woman or the man, the frequency of choosing the wife's name was requested.

75. The representative of the Federal Republic of Germany, in replying to questions raised, noted first that the only reservation made, on article 7 (b) was because the provision of the Convention contradicted the federal Constitution which completely prohibited women from bearing arms in the military service, and that was a provision which the vast majority of women in the country favoured and for those reasons could not be withdrawn. However, it did not bar women from civilian aspects of the armed forces. She noted that the process of ratification of the Convention had not involved controversy as the Convention was already consistent with existing law.

76. Regarding her ministry, she noted that within the three-tiered governmental structure of the Government (which had federal, provincial (Laender) and municipal levels), her ministry dealt with a variety of issues, for each of which a Department existed at an equal level, one of which dealt with women. The Women's Department had existed since 1986 and had a mandate to promote equal rights and therefore played a role in all aspects of the federal Government. Its special areas of competence included general policy on women's affairs, including a right to take initiatives in the form of draft laws and interventions in Parliament, a right to request postponement within the cabinet on proposed laws, which must be reviewed in terms of their potential impact on women. It functioned as a focal point to assist other ministries dealing with questions relevant to women such as, for example, protection of women in the workplace that was the responsibility of the Ministry of Labour and Social Affairs. The Department had a budget of DM 15 million per annum of which more than DM 1 million were provided to non-governmental organizations and research institutions, and which accounted for only part of the overall government budget for women's questions since many other departments of various ministries funded women's programmes (e.g. on AIDS and elderly women). Specific figures were not possible on the provincial and municipal levels owing to the diversity of institutions. Both women and men worked in the machinery and at the federal level 25 per cent of the staff were men, although at the provincial and municipal levels there was a greater predominance of women.

77. There was a long-standing tradition for women's organizations and movements going back to the nineteenth century, but currently 43 major women's organizations had come together in the Council of German Women, including groups from political parties, trade unions and churches. They worked closely with the ministry, which provided DM 750,000 per year for the Council's secretariat. Women's associations also existed at provincial (Laender) levels. There was also what was called an "autonomous women's movement" which had evolved from concerns with abortion rights, violence against women and other feminist concerns, some of whose activities were also funded by the Government. Thus there had been no decline in the vigour of the movement, but rather growing participation.

78. At the international level, the movement of the European Economic Community towards a single market would affect women and the Federal Republic was participating in the formulation of a European policy on equal opportunity in that context, as well as in the work of the Council of Europe.

79. Regarding article 2 (c), sanctions existed in that where discrimination involved a violation of law, an individual or group could make use of the courts (e.g. labour courts). However, if it was not a violation of law, no direct sanction existed and no institution such as ombudsman had been created. On article 2 (e) the constitution prescribed equal rights for all women, citizens or non-citizens, but that governed the relationship of the individual with the State and did not extend to private relationships. Other legislation, such as the labour code, also prohibited discrimination; that applied to German and foreign workers as well and the State labour offices did not discriminate. However, employers could not be forced to accept someone suggested by the labour office. Finally, on article 2 (g) the penal code did not permit abortions, but there was no punishment if the life of the woman was in jeopardy, if there was a physical or mental implication for the child, where the pregnancy was the result of a sexual offence or the birth would lead to a serious situation of dire need, and where the ground was certified by a doctor and after requisite counselling. The 1974 penal code had permitted abortion, but a subsequent judicial review had invalidated it. Because

interpretation of the existing code differed according to Laender, women often travelled to other Laender or abroad. Statistics showed 83,784 abortions the previous year, of which 86.8 per cent were covered by the extreme need ground, but many more, which had been performed by doctors within the legal possibilities, had not been reported, they are to be up to 200-250,000 per year. Few convictions had been handed down and those had been controversial.

80. On article 4, temporary measures were a core of government policy, although politically the issue was controversial. Those opposing affirmative action often invoked the equal opportunities clause of the Constitution, but article 4 of the Convention was often used as a response. Positive action in political participation was a matter for the parties rather than the Government. No clear figures were available on the effect of the guidelines for industries, but it could be noted that 51,000 copies had been provided. The issue would be dealt with in detail in the second periodic report.

81. Concerning article 5, there was a policy of encouraging men to share in domestic responsibilities, and parental leave was equally available to them but only 2 per cent of the fathers had taken advantage of the rights. It was expected that the younger generation was more likely to give up traditional role stereotypes, especially when mothers were more active. Sex education was included in the school curriculum, the need for family planning had been recognized and textbooks were reviewed regularly to eliminate stereotypes. There was no prior censorship of the media, although there was monitoring of broadcasts by the Broadcast Council.

82. On article 6, the number of prostitutes was not known, although it was suspected that owing to a fear of AIDS the number may have declined. At the Laender level, counselling was provided and self-help efforts encouraged. That included counselling offices for foreign women, who had been brought into the country on false premises. With regard to violence, there was a network of shelters (over 200) and a draft law was being considered to punish matrimonial rape.

83. Women's issues were of increasing concern for the political parties and all major parties had set quotas or targets to increase the participation of women, it was reported in the context of article 7. It was suggested that whether quotas were adopted or not - and differing views were held by women on that - participation would grow. It was noted that women in trade unions were underrepresented in top decision-making positions, one of the 16 major unions was headed by a woman. Among employers' associations, the proportion of women was very small. In the judiciary, 17.6 per cent of the judges and 17.6 per cent of the prosecutors were women.

84. Regarding article 8, information had been provided in the addendum to the report but assurance could be given that the criteria used to select women to represent the Federal Republic in international posts was professional competence. On article 9 it was confirmed that all previously discriminatory provisions of the law had been eliminated in 1970.

85. To increase the proportion of women in non-traditional fields of education, in the context of article 10, there were some problems in view of the various factors involved. Because of the benefits of the federal educational advantage law, the number of female students at the universities had risen. However, many girls selected training in "women's jobs" that were more poorly paid, but that was being

combated by providing information to induce girls into non-traditional vocational training programmes. In general the share of women in predominantly male vocations had increased fivefold since 1977 to a total of 8.4 per cent. Pilot studies had shown that girls were often better qualified than boys after training in these so-called non-traditional vocations but that girls often encountered problems when on the job because of customers' sexism. Illiteracy was non-existent in view of long-standing compulsory school attendance.

86. Regarding article 11, the reasons why only 265,000 women had entered the labour force between 1975 and 1986 can be explained by the then difficult economic situation, it was noted that over the same period the number of men in the labour force had decreased. From 1986 to 1988, however, there had been a further increase of 245,000 women. Regarding the use of the labour law to combat discrimination, the labour courts provided sanctions based on violation of civil rights and it was expected that a draft law would be passed in 1990 that would increase the amount of compensation in successful cases. Salary differentials had been made illegal but that had not been fully implemented in practice in part because salaries were set as part of collective bargaining that was outside government regulation. Women's recourse was through the labour courts and unions had supported cases at court to press claims. There was evidence of wage discrimination in the "light work" group because some wages were set on the basis of "muscle power" exerted and that was being fought by more realistic evaluations of job difficulty, which should help in contract negotiations. Regarding part-time work, the existence of legal equality in law and contracts was noted and in addition a new law made further improvements by adopting protective stipulations for work-on-call and shared work. In general, employers must give part-time workers equal treatment in pay and benefits, although when part-time work was below certain thresholds, it was not covered by social security. More women than men were found in part-time jobs in order to reconcile economic and domestic responsibilities and that reflected the lack of sharing of the latter. Part-time work did affect career possibilities of women but that would change when more men were involved in part-time work.

87. In terms of protection in the workplace, access was restricted to 20 vocational areas considered to have particular danger and stress, to wit: mine work, steel mills and construction. The general prohibition of women in construction was under review and it had been proposed that, upon certification of good health based on a medical examination, women be allowed to work in the sector, which would open up 14 of the areas. It was expected that the remaining 6 areas would not be opened up, in part because mine work was prohibited by an ILO convention. Women suffered a total of 17 per cent of work-related accidents in total. A number of policies had been adopted to ease women's return to the workplace, including counselling by newly created special offices, and retraining programmes were financed by the government and by labour offices. Women's unemployment was still 2 per cent higher than men, in part because more women returned to the workforce after interruption and were looking for part-time positions that were scarce relative to demand. The migration of people from the German Democratic Republic did not seem to have had a special effect on women, although women from the German Democratic Republic trained in construction would be able to work only when the prohibition on women in construction was removed.

88. To help reconcile domestic and economic responsibilities, parental leave had been extended, funds for training were being provided to both women and men, there was pension insurance when parents took time from jobs during the period of early childhood, during which research had indicated the importance of the presence of

both parents to the children's development, and retraining opportunities were provided based on the period of prior employment. Kindergartens were considered desirable from age three and the view of the Government was that all children between ages of 3 and 6 should be in a kindergarten in view of its importance to both children and women. The situation varied from province to province and only part of the need for full-time day care had been met.

89. Concerning article 12, it was noted that women constituted 291 out of 3,636 AIDS cases, mostly derived from drug dependency. Drug dependence among women had not been well-studied and that would be remedied. Special services had been developed for women coming from other cultures.

90. Relating to article 15, the existence of a union of housewives was noted that had been calling for a salary for homemaking although that had not been well-received. The Federal Statistical Office intended to develop figures showing the contribution of unpaid work in the home to the gross national product.

91. On article 16, women could retain the right of part of a pension upon division of property at divorce. The most common method of property division was for communal property in terms of value added during the marriage. There were no formal statistics on how family names were chosen although a survey made by the registrar's association in September 1988, indicated that depending on the size of the locality, between 1.5 and 5 per cent of couples marrying had chosen the woman's family name.

92. In response to the replies to the Federal Republic of Germany, members of the Committee commented that it would be valuable if information could be included in the second periodic report of the Federal Republic of Germany about measures to make it easier for women (and men) to combine their work and family responsibilities, such as child-care, part-time work with equivalent conditions and re-entry programmes, and also about programmes to encourage girls to broaden their educational and vocational choices. It would help if data could be included to show change in these and other areas.