



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of Discrimination
against Women**
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Summary record of the 465th meeting

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Chairperson: Ms. González

Contents

Consideration of reports submitted by States parties under article 18 of the
Convention (*continued*)

Second, third and fourth periodic reports of Germany (continued)

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The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by States parties under article 18 of the Convention (*continued*)

Second, third and fourth periodic reports of Germany (continued) (CEDAW/C/DEU/2-3 and 4)

1. *At the invitation of the Chairperson, Ms. Niehuis, Ms. Thielenhaus, Ms. Augstein and Ms. Royall-Grotte (Germany) took places at the Committee table.*

2. **Ms. Goonesekere** asked whether the federal Government could influence curriculum development in universities in the different *Länder* to ensure the mainstreaming of gender issues. In connection with equal rights, she noted that although men could take parental leave, they rarely did so. Public education might be useful in that respect. She wondered whether university faculties of education had workplace childcare facilities which could also be used for training purposes.

3. On the subject of visa regulations, she noted that, in many countries, spouses were granted residence visas after an initial screening process and could later apply for citizenship. In Germany, visa policies were gender-neutral, but the long time it took to obtain residence visas had a greater impact on women, whose uncertain situation could expose them to abuse and trafficking. She asked about the rationale behind Germany's visa policies.

4. She requested clarification about collective bargaining laws and asked whether it would be possible to introduce guidelines on sexual harassment in the workplace. She also wondered whether there were any arrangements for involving women in the collective bargaining process and whether any efforts were being made within trade unions to promote gender sensitivity.

5. **Ms. Niehuis** (Germany), responding to the comment that the reports made no explicit link between Germany's equal rights policy and the provisions of the Convention, said that in her country reports were written somewhat differently from United Nations and other international documents and did not usually contain as many cross-references to other documents.

6. It was true that reconciling family and career and promoting women's rights were two different issues. It was also true that, until recently, most German women,

rather than combining family and career, had given up their jobs to devote themselves to their family responsibilities. The aim currently was to change that paradigm and encourage women to reconcile family and career in the truest sense. The law on child-raising leave had been amended; whereas formerly women had been able to leave their jobs for up to three years with a guaranteed right to return, the new law included a provision allowing both fathers and mothers to work part-time during child-raising leave and to return to full-time employment thereafter. That gave men and women the same opportunities to see how they managed to reconcile family and career.

7. Establishing equal rights for women in the private sector was a serious challenge. The private sector was much more difficult to regulate than the public sector, in part because it was much more diverse. A group of experts comprising representatives from industry, science and politics and the parties to collective bargaining had been set up to look at equal rights provisions. Since sufficient laws were already in place, the aim was not to add to them, but to change the de facto situation, which could only be done by raising the awareness of those who wielded power in the private sector. Activities to promote women's advancement were being organized in conjunction with employers' associations and trade unions. Efforts were also being made to include the concept of equal rights in the Company Constitution Act. That was a slow and intensive process but it was very important to women, as most women were in fact employed in the private sector.

8. **Ms. Thielenhaus** (Germany) said that women in the new *Länder* had experienced difficulties finding employment. Their unemployment rate was 21 per cent, 4 per cent higher than for men and 10 per cent higher for women than in the western *Länder*. In the western *Länder*, unemployment rates were similar for both sexes and women even had a slight advantage because of part-time employment. However, the employment rate was higher for women in the new *Länder*: 57 per cent, compared with 48 per cent in the west.

9. The expectations of women in the eastern *Länder* with regard to full integration in the labour market and extensive, State-guaranteed child benefits had been disappointed after reunification. Despite intensive legislative efforts, the situation had improved only slightly and many women had had to accept work at a

lower level than their previous employment. A number of measures advantageous to women had been taken in connection with the European Structural Fund. Federal programmes for job creation and for the advancement of women in rural areas were focusing on the new *Länder*.

10. With regard to childcare, there was almost complete coverage for the 3 to 6 age group, with the new *Länder* showing a slight advantage, but there were not enough places for children aged under 3 and over 6 years. The birth rate was a useful indicator of the level of social integration. In the first few years following reunification, there had been a sudden drop in the birth rate in the new *Länder*, but it had then returned to its previous level. Women in the new *Länder* were very active in women's associations at both the regional and the national level.

11. Questions had been asked about the social integration of foreign women. The data available on women were disaggregated by *Land*, age group and needs, but made no distinction between German women and foreign women. Figures showed that for young women the rate of workforce participation was almost the same as for men, but it was much lower for married and older women. Language was certainly an important factor in social integration. The 16 *Länder* all had language programmes and courses for foreign mothers who were not working. The programme to combat youth unemployment would be focusing on foreign youth in the current year. No gender-disaggregated data were available on victims of racist and xenophobic acts. In view of plans for gender mainstreaming, the use of gender-specific data in the planning process would be an interesting development.

12. With regard to flexible working hours, although part-time work yielded a lower income than full-time work, it did perform an important function and partially explained the lower unemployment figures for women in the western *Länder*. Part time did not necessarily mean half time, it meant any number of hours totalling less than full time. The purpose of promoting part-time work was to reduce working hours in general in order to meet the challenges facing industrialized countries in terms of the equitable distribution of work. The federal Government would shortly be launching a campaign to make part-time work more attractive. It was no longer realistic to expect that full-time work could be provided for

everyone, and the new forms of work available would help to change people's attitudes.

13. In response to the question about university curricula, she said that the running of universities was the responsibility of the *Länder* rather than the federal Government. However, the federal Government had established a conference with the *Länder* ministries and measures had been taken to increase the percentage of women in research positions at universities and institutes of higher education.

14. She did not know whether the workplace regulations worked out by the parties to collective bargaining included provisions on sexual harassment. Women's participation in trade unions was increasing, but any efforts which the unions made on behalf of women were voluntary and, unlike the political parties, they did not have mandatory quotas to ensure equal representation.

15. **Ms. Augstein** (Germany) said that the content of article 3 of the Basic Law had been very widely discussed in the past among women and in political circles and the amendment to that article, obligating the State to promote de facto equality, had been widely publicized and promoted. There did not seem to be any need for further education on that issue in political circles. Under article 3, women could file a complaint either directly with the Constitutional Court or with a lower court, which could refer it to the higher level if it was established that there had been a violation.

16. In connection with violence against women, there had been several improvements in recent years in measures for the protection of victims. A legal counsellor could be provided at the expense of the State and the victim could be accompanied in court by a trusted person of her choice. Closed sessions were possible but rarely held, as the public nature of the proceedings often afforded greater protection. The defendant could sometimes be removed from the court, in which case he was presumed innocent and the court weighed the evidence against him.

17. In relation to marriage and the right to reside in the marital home, women who were victims of violence could go to court and claim sole possession of the marital home only in cases of special hardship. The hardship clause was open to differing interpretation, especially in connection with violence, and had resulted in a wide range of judgements. Provision

would soon be made to facilitate the award of the marital home to the woman.

18. Violence against older women had, until recently, been a taboo issue. She wished to differentiate it from violence against women in general, as violence against older people, especially older women, was usually the result of overwork and lack of patience on the part of caregivers. The working environment had to be improved and more support provided to caregivers.

19. The work of eliminating violence had to be done throughout society. She agreed that education of law enforcement officers and members of the judiciary was important. However, such efforts were the responsibility of the *Länder*. Materials for law enforcement officers had been developed, intervention projects had been promoted and there was continuing education in the health sector. In Berlin, a model project entitled "Signal" had been set up to raise awareness among doctors and help them to identify victims of violence and react accordingly. Continuing education in the judicial system was a difficult issue; judges were independent and could not be ordered to attend mandatory training courses. Seminars had been organized but had been cancelled for lack of participation.

20. On the subject of trafficking in women, federal law provided for a four-week waiting period during which victims of trafficking could not be deported. Victims also had the right to seek damages in civil court, but that right was rarely exercised. Resources had therefore been allocated for the provision of counselling services and the establishment of women's shelters. The Ministry of Economic Cooperation also participated in a programme designed to promote the reintegration of women in their home countries. Law enforcement officers were being trained to identify victims and to be more sensitive to the issue of trafficking. A number of problems had been encountered in implementing measures to combat trafficking in women: victims were often disqualified from witness protection programmes either because they were too frightened to testify or because they spoke no German. Other approaches to the protection of witnesses were therefore being explored and the necessary funding sought.

21. **Ms. Royall-Grotte** (Germany) said that, in order to keep families together, the legislation in force provided that the spouse of a person granted asylum

also had a delegated right to asylum without having to file a separate application. Spouses could exercise that right if the marriage had existed for four years prior to the situation that gave rise to the application for asylum. Draft legislation had been proposed to reduce that period to two years and to introduce a hardship clause under which deadlines would be waived altogether, making it easier to protect the spouses and children of individuals who had been granted asylum.

22. **Ms. Niehuis** (Germany) said that prostitution was a fact of life in Germany, since as many as a million men used the services of prostitutes each day. An anomalous situation existed, however, in that the German Civil Code stated that the practice of prostitution was immoral. As a result, while a prostitute's work was subject to taxation, customers could in theory refuse to pay for her services, since the practice had been ruled immoral. Consideration was being given to amending the Code to remove the characterization of prostitution as immoral, thereby enabling sex workers to claim the right to payment for their services and to obtain health and medical insurance coverage. That would also reduce opportunities for the exploitation of sex workers. The forced prostitution of others would, however, remain a criminal offence.

23. **Ms. Taya** expressed concern that many of the provisions of the Second Equal Rights Act applied only to public sector employees, even though Governments were required under the Convention to treat public and private sector employees on an equal footing. She wondered what initiatives the German Government proposed to take in that area and whether it intended to use the experience it had gained in protecting the rights of the disabled to improve the situation of female workers in the private sector.

24. On the subject of gender-based discrimination, she noted that, under current German law, the victim was required to prove discrimination. That burden of proof was often too heavy and should be transferred to the defendant.

25. **Ms. Khan** noted that minority and migrant communities in Germany appeared to suffer disproportionate hardship and that legal remedies were inadequate. It was not clear, for example, what the provisions of the Aliens Act were and how they were taken into account in legal proceedings involving minority and migrant women. She wondered whether

women from those groups enjoyed standard social security, victims' compensation and medical benefits.

26. On the question of equality in employment, she wondered whether any steps were being taken, including pilot projects, to overcome the gender stereotyping of women in employment. The problem seemed to be particularly acute in the private sector.

27. With regard to the programme of financial assistance for women entrepreneurs, it would be useful to know whether such assistance was available only to women and whether any collateral was required. An indication should also be given of how the programme was being implemented in the private sector and whether the Government had an oversight role in its implementation.

28. **Ms. Feng Cui** asked whether any studies had been made of the status of women in the former German Democratic Republic and of the impact on those women of the economic and ideological changes that had accompanied reunification. The reports referred to the measures taken to promote their social integration and to ensure that they enjoyed equal rights. She wondered whether those measures had been taken at the state or the provincial level and whether they included steps to promote the participation in politics of women from the new *Länder*.

29. **Ms. Niehuis** (Germany), referring to the heavy burden of proof on female victims of gender-based discrimination, said that consideration was being given to amending the Civil Code in order to transfer the burden of proof to the defendant.

30. As to how to implement the principle of equal pay for equal work, the Government, unfortunately, was not in a position to influence collective bargaining agreements in the private sector. Its approach had therefore been to publicize the wage gap, with a view to breaking down the wall of silence on the issue by ensuring greater transparency.

31. On the question of parental leave, employers were aware that female employees might request maternity leave. The Government's approach had been to propose changing the law to extend the entitlement to parental leave to men, thereby reducing the perception that only women took such leave. Concerning assistance to women entrepreneurs, a German bank had recently launched a successful

programme under which it guaranteed loans to women entrepreneurs.

32. **Ms. Thielenhaus** (Germany), in response to questions about the rights of foreign women residing in Germany, said that foreign women with resident status in Germany enjoyed the same rights as German citizens to social benefits, employment promotion, labour law protection and health and medical services. The problems faced by such women were not legal ones, they concerned living conditions and were often exacerbated by the language barrier. In addition to the measures described in the reports, other measures were to be developed on the basis of the recently published Sixth Report on Families, the first such report to address in detail the situation of foreign families. To supplement the Report on Families, a study had been commissioned on the situation of foreign women and girls in Germany, and another study was planned on their role in the workforce. The ultimate aim was to enable foreign-born women to achieve the same social status as German-born women.

33. It had been suggested that the many individual measures instituted to promote women's employment might be in need of overall coordination. The "Women and Work" programme would serve that purpose. Individual measures were intended to supplement the thrust of the basic legal texts, which were under constant scrutiny. As part of the "Women and Work" programme, the impact of the provisions of the Labour Promotion Act, now subsumed into the third book of the Social Code, would be reviewed. Measures targeted at women returning to the workforce after years of absence were to be complemented by measures for women who had continued working and needed different forms of support.

34. With regard to the promotion of employment for disabled persons in the private sector, the Government was studying a range of measures, one of which would make the willingness of companies to hire the disabled one of the conditions for the award of Government contracts.

35. **Ms. Royall-Grotte** (Germany) said that the issue of recognizing gender-specific persecution as grounds for asylum was being intensively debated in Germany because the country took its humanitarian responsibilities very seriously. German law on asylum-seekers was based on the Convention relating to the Status of Refugees, which characterized a refugee as a

person facing persecution in his or her own country for reasons of race, religion, nationality, membership of a particular social group or political opinion. The grounds for asylum were thus essentially political, in that the persecution must be by the State or at least abetted or tolerated by the State. Gender-specific persecution had been recognized as political in some cases, but there was a reluctance to extend the general definition of asylum to include protection against persecution by the family or society.

36. If a female asylum-seeker was unsuccessful in gaining asylum, the legal obstacles precluding deportation were broader than the grounds for asylum. Under the Aliens Act, a person could not be deported to a country in which he or she would be subjected to degrading treatment by the State or in which he or she would face an explicit, substantial threat to life or limb or the loss of liberty, regardless of whether the threat was attributable to the State. The danger would be assessed on a case-by-case basis.

37. Many legal safeguards were built into the deportation process. Each person's case was decided individually. At every stage of the proceedings, the decisions made by adjudicators of the Federal Office for the Recognition of Foreign Refugees were subject to appeal and judicial review. The views of the person concerned were heard, with the assistance of an interpreter when necessary. A request for a female adjudicator and a female interpreter would be honoured. Adjudicators were specially trained in the legal, psychological and sociocultural issues which they would be likely to face and in gender sensitivity. A new set of administrative provisions, instructing adjudicators, among other things, to take gender-specific persecution into account in deciding deportation cases, would soon enter into force.

38. Asylum-seekers awaiting a decision received an allowance equal to 80 per cent of the assistance received by legal residents under federal social security provisions. After three years, if conditions in the country of origin still prevented their return, the full amount of assistance would be provided. Emergency health needs were covered, but not comprehensive health care.

39. **Ms. Acar** said that the Committee had high expectations of Germany, since it had become a champion of women's rights and had introduced ground-breaking innovations. Most of the many

programmes described in the reports were well targeted. Her questions concerned a few specific critical areas.

40. First, she wondered what policies and programmes the Government had instituted or was contemplating to overcome gender stereotypes in the media and, specifically, the stereotyped image presented of foreign migrant women in Germany. It was a well-established fact that discrimination against any group was usually greater for the women of the group. Many foreign women in Germany, for example, Turkish women, were suffering from both the discrimination inherent in their own culture and the xenophobia of the larger society. The State had a responsibility to extend its protection to such women and to sensitize the general public and the foreign communities concerned. She was not recommending media regulation, but urging the Government to use creativity, based on solid research, to introduce programmes that presented positive images.

41. Secondly, she would be interested to know whether the Government had introduced or was planning to introduce programmes and policies to combat the negative impact of religious fundamentalist movements on the rights of women.

42. Since the Government was undertaking studies of the situation of foreign women and girls in society and in the workforce, she looked forward to hearing more in the next report about the root causes of their problems in integrating into German society, with a breakdown by ethnic or national origin. If there were any foreign women's non-governmental organizations, she hoped that their input would be reflected in the next report.

43. **Ms. Kim Yung-chung** said that, coming as she did from a country that had been divided for over 50 years, she was very interested in the process of German reunification and its impact on the women of the former German Democratic Republic. She hoped that the delegation could be candid about any mistakes which had been made or unexpected obstacles encountered and any changes of direction. She would like to know what steps the Government had taken to address the emotional and social impact of reunification and to harmonize differing values and outlooks, and whether the non-governmental organizations had been enlisted to deal with the stress and insecurity experienced by women of the former

German Democratic Republic. If the Government had not conducted in-depth surveys, she would appreciate information on any studies done in that area by private research institutes.

44. With regard to university programmes, she had heard from an independent source that the new emphasis on information technology had had an adverse effect on enrolment in the humanities, social sciences and women's studies. She would appreciate the delegation's comments on that subject.

45. **Ms. Manalo** said that she wished to raise the issue of unprotected domestic workers, many of them from South-East Asian countries, who were lured into virtual domestic servitude under cover of the "au pair" provision of the immigration laws. Under the European Agreement on "Au Pair" Placement, the "au pair" system was supposed to enable young women to learn about another culture by living with a family in another country, receiving board, lodging and pocket money in return for five hours a day of assistance with household duties. The system was being abused by German recruiters and their client families in order to evade immigration laws and bring in young women from developing countries to work full-time in unregulated domestic service for little or no money. She wished to know what measures were in place or planned to prevent girls from being exploited under the scheme. Since an "au pair" visa was required, the Government had every opportunity to exercise oversight prior to immigration.

46. **Ms. Niehuis** (Germany) said that, in the context of reunification, middle-aged women in the eastern *Länder* had experienced more problems than younger or older women. Despite having been very well educated and trained in the former German Democratic Republic, many middle-aged women had lost their jobs as a result of economic restructuring and had encountered great difficulties in finding equivalent employment. The birth rate in the eastern *Länder* had declined sharply, reflecting the feelings of economic insecurity experienced by many women, and had remained low for a number of years. In conjunction with non-governmental organizations, the Government had set up many programmes to help women in the eastern *Länder* cope with the problems, including emotional problems, that they were experiencing as a result of reunification and the need to adapt to Western standards in areas such as employment. The one major miscalculation had been the incorrect assumption that

the situation in the eastern *Länder* would evolve much more quickly than it had actually done.

47. On the question of religious fundamentalist movements, she said that it was very difficult for the Government to interfere because the German Constitution guaranteed religious freedom. As for discouraging parents from placing their children in Islamic fundamentalist religious schools, schooling was the responsibility of the *Länder* and the federal Government could only encourage them to provide Islamic religious instruction in public schools in order to offer an acceptable alternative. The exercise of religious freedom could have negative effects, but as long as no criminal activity was involved, the Government was bound to uphold that principle.

48. As for the abuse of the "au pair" system, she had no information on that problem but would investigate it.

49. **Ms. Thielenhaus** (Germany) said that, although there was press freedom in Germany, there were some voluntary controls. There were also measures to ensure respect for human dignity and to protect young people, and any publication which failed to comply could be withdrawn from circulation. On the subject of stereotyped images of women in the media, it was interesting to compare the findings of two studies which had been conducted 20 years apart. Although some superficial changes were apparent, with women playing a more prominent and dynamic role, the media still portrayed traditional gender roles, although in much more subtle ways. Further measures were planned in an attempt to remedy that situation.

50. On the question of women's place in higher education, there was no evidence that women were encouraged to take up teaching positions in the social sciences rather than in technical or scientific subjects. The authorities were making efforts to encourage women to study technical and scientific subjects, but that did not mean that research in the social sciences had been cut back. A study had recently been commissioned to examine the state of gender research at German universities.

51. **Ms. Myakayaka-Manzini** said that it seemed from the reports that German women were seriously under-represented in public life. She asked what role women's organizations were playing in efforts to ensure that women had a say in decision-making processes, whether the Government had a particular

time frame for eliminating stereotypes and traditional attitudes to women and what special measures were being taken or considered to ensure that women were represented in public life, beginning at the local level.

52. **Ms. Ouedraogo** asked what practical impact the various measures and programmes for gender equality had had on women's lives in the home. That was a particularly difficult area in which to bring about change, for instance, on issues such as the equitable sharing of domestic tasks. With reference to the provisions for paternal leave, she wondered how many fathers had availed themselves of the opportunity to take paternity leave. She asked why, when women had access to credit and land, only 9.5 per cent of farm managers in Germany were women.

53. **Ms. Regazzoli** asked whether the authorities were carrying out coordinated activities with non-governmental organizations to mobilize women to participate more fully in all decision-making areas, and whether the Government believed that better representation of women in decision-making posts would make it easier to implement the provisions of the Convention and the Committee's recommendations. If a real gender education policy was implemented from pre-school upwards, gender stereotypes would cease to exist within 20 years. She asked whether the Government planned to implement any such policy to eliminate gender stereotypes.

54. The State party should clarify the information in the fourth periodic report on the taxation of married couples, which seemed to suggest that tax provisions were structured in such a way as to discourage married women from entering paid employment. She would also welcome more information on training opportunities and health care for older women and on whether women in rural areas and women with disabilities received special assistance.

55. One health-related problem that was seldom discussed was suicide. She asked whether the delegation could provide any information on suicides among adolescent girls, adult women and older women.

56. **Ms. Niehuis** (Germany), referring to the issue of women's participation in the decision-making process, particularly in the political sphere, said that the information given in the fourth periodic report showed that considerable progress had been made. Germany ranked second in the European Union in terms of the political representation of women. In the national

parliament, 30.1 per cent of members were women, compared with the European Union average of 17.5 per cent. Further efforts would be made, however. Some political parties were seeking to bring in more women by various means, including quota systems, which worked very well. Women's participation in the federal Government's advisory bodies was only 12.2 per cent, but further measures were planned to improve the situation.

57. Opinion polls showed that attitudes and expectations among the current generation of young women were qualitatively different from those prevailing 30 years previously. The new generation did not assume that a woman's professional career ended when she had children. As far as schoolbooks were concerned, the federal Government did not control their content but could issue recommendations designed to promote gender mainstreaming and help do away with traditional stereotypes.

58. Turning to the taxation of married couples, she accepted the point made by Ms. Regazzoli. The authorities had for some time been considering whether tax legislation should be amended to rectify the situation. As for health care for older women, rural women and women with disabilities, the relevant provisions had been improved recently and were very favourable in terms of mandatory social benefits and health care insurance and the overall coverage provided for those groups of women; older persons who had not contributed to the insurance fund were also covered.

59. **Ms. Thielenhaus** (Germany) said that, since all agricultural areas in Germany were relatively close to towns with large health facilities, rural women had no problems of access to health care.

60. **Ms. Niehuis** (Germany) thanked the Committee for its stimulating comments and for the ideas which it had given the members of the delegation to take back with them.

61. **The Chairperson** said that Germany was very advanced not only technologically but also in terms of the defence of women's rights. The delegation's reports and presentation had aroused great interest, which was why the Committee had asked so many questions about political participation, gender equality in society and at work, violence against women and a host of other topics. The Committee had greatly appreciated the delegation's frank and highly informed responses.

62. She hoped that the Committee's report, which would be issued shortly, and the information contained in the delegation's reports and presentation would be widely disseminated in Germany. Lastly, the Committee was gratified that the Government planned to ratify the amendment to article 20, paragraph 1, of the Convention and looked forward to its ratification of the Optional Protocol.

The meeting rose at 6 p.m.