



Equal rights for women in Europe?

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with participants from Great Britain, Sweden and Germany

International Workshop:
Equal rights for women in Europe?

- Final report -

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Within the framework of the SOCRATES programme of the European Commission, The "Fachhochschule für Verwaltung und Rechtspflege Berlin" (University of applied sciences for public administration and legal affairs) is coordinating an "Intensive programme" with the topic "European jurisdiction and its influence in the National Public Administration". Participating universities are the "University of Central Lancashire in Preston/England" and the "University of Göteborg/Sweden". The three partner universities have agreed to carry out an international workshop with a different topic, once a year. At this, a total of nine students and one lecturer per participating university are assumed to take part. The first workshop with the topic "Equal rights for women in Europe?" took place in Berlin from May 15th to May 26th 1998 under the guidance of Prof. Dr. Heinz Wendt of the FHVR Berlin.

This international workshop was financed by subsidies of the SOCRATES programme, budgetary means of the three participating universities and by the participants own resources. This documentation is also the final report of the "Intensive programme 1997/1998".

Dr. Brigitte Thiem-Schräder
-Socrates co-ordinator-

Preface

The SOKRATES-Programme offers the chance to analyse and understand the importance of equality between women and men in the labour market. This report contains all findings and conclusions based on equal rights for women in Europe. The report's main goal is to initiate a debate and awareness of the problems occurring in the various European countries.

The responsibility for the workshop was that of Dr. Joy Foster and Mr. Joe Ravetz of the "University of Central Lancashire", Dr. Marie Tuula of Göteborg's University and Prof. Dr. Heinz Wendt of the "Fachhochschule für Verwaltung und Rechtspflege Berlin".

In the following you will find the presentations of the three groups of the workshop, who discussed the topics:

- The present situation of women in Europe – a comparative country analysis
- The EU's decision on the position of women in the public administration and the different national ways of implementation
- Labour law, motherhood and professional career. The history and current position in Sweden, England and Germany

Furthermore reports of Dr. Joy Foster, Dr. Marie Tuula, Mrs. Christine Bücken-Gärtner and Prof. Dr. Heinz Wendt and the results of the final discussion.

I would like to take the opportunity to thank my colleagues, Mrs. Foster, Mr. Ravetz and Mrs. Tuula for their co-operation and for their engagement to prepare and realize the workshop. I would also like to thank the students for their interest and motivation. All participants' enthusiasm has contributed immensely to the success of the workshop and the fun that we had with it.

I would furthermore like to thank the speakers and practical experts, who have contributed their knowledge, the colleagues of the International Office of our Fachhochschule for their co-ordination and management, as well as Mrs. Ritter and Mr. Bethke for their organizational support with regard to the contents. This workshop was the first of its kind at our Fachhochschule, but it definitely was not the last one, because the discussion about equal rights for both, women and men in Europe, is still continuing.

Prof. Dr. Heinz Wendt
-Chairman of the workshop-

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Heinz Wendt

The importance of European jurisdiction to the situation of women in labour relations

1. The European international courts

In the following I will give you a short summary of the importance of the European jurisdiction to the situation of women in labour relations.

You remember that we have two European international courts, which have competencies to decide national law cases:

Firstly the European Court of Human rights in Strasbourg, France, as an institution of the European Council, which includes nearly all European countries. The European Council was founded after the Second World War as an Assembly of co-operation, in which every member-state remains its own sovereignty, except the execution of the European Charter of Human rights. As for this subject, the European states have given the final control to the European right's commission and to the European Court of Human rights. Everybody, who feels himself hurt in his rights, for instance his right of equality¹, can appeal at last the European right's commission. One of the conditions for this step is, that he has done all attempts in his own country to find justice before the national courts. If the commission is convinced about a violation of human rights, it accuses the concerned member-state before the European Court of Human rights.

Secondly, there is the Court of the European Community, nowadays called European Union. This court is responsible for the economic, social, ecological affairs and development in the 15 member-states in Europe, from Great Britain to Greece, from Sweden to Spain. In a different way, the member-states have transported national competencies of their own sovereignty to the different decision bodies of the Community. Those are the Council - the assembly of the government's chiefs -, the European Commission - the European executive body in Brussels -, the European Parliament, which is responsible for example for the community's budget, and, last but not least, the European Court of the European Union in Luxembourg. This court

¹ Art. 14 of the Charta

has different competencies; one of its main responsibilities is to maintain the same execution of European Union's law in every member-state. That's why, every national court in the member-states can appeal to the European Court for to get interpretations of European legal rules, if they are concerned in the special law case. There is even an obligation for the national court in such European law questions, if the national court has to give the final decision, if it has the role of the highest national court; here the national court has to interrupt the law-procedure for looking first for the interpretation by the European court². Thereby, it is to be mentioned, that the citizens of the European Union have not the right, to appeal directly in those cases to the European Court, but there are special national courts for them in their own countries³.

2. The law of the European Union

By the way, you cannot simply compare European Union's law-acts with your different national law-cultures. There is the famous case-law in the United Kingdom, a public and private law in Sweden, and the tradition of parliaments' law-acts in France and Germany. In the European Union we distinguish between primary European law, fixed in the different international treaties between the member-states, mainly in the Treaty of the European Union, and secondary European law, made by the responsible body of the European Community, it is by the Council, as you remember that assembly of the governments' chiefs in co-operation with the European Parliament and the European Commission⁴. These European law-acts have to consider the different targets of the European Union, mainly the realisation of the common market. Some law-acts, the so called executive regulations, have to be regarded at once by all national institutions, by the enterprises, agencies, offices and courts without any national act of transmission⁵.

Most European Union's law-acts, the so called directives, have to be transformed into national legal rules by a special national law act⁶; the national law-making bodies are obliged to regard special delays, fixed in those several European directives.

² Art. 177 of the Treaty of the European Union; formerly European Economic Community

³ Art. 183 TEU

⁴ Art. 189, 189a of the Treaty of the European Union (TEU)

⁵ Art. 189 TEU

⁶ Art. 189 TEU

Some of these European directives are already so clear and substantial, that they can be executed in the different member-states also without any national transfer-act, so if the member-states has neglected the delay of transmission. Those ones are called the self-executing directives.

3. The principle of equality between men and women in the European Union

We can find nearly all over Europe a sort of discrimination of women in the world of professional career. In all so called higher positions, in the management of economic an technical enterprises, in the ministries of states, in the public sector, for instance at our Fachhochschule, you will find a lot of male personalities, who decide the main points. Of course, there are women too, but mostly in an executive position, to realise the decisions of the leading part of mankind, the male human beings, formed after the image of god-father himself.

You may look at me, myself, I'm such a wonderful creation of nature too, and therefore it is quite naturally, that the me, as a man, I give you a lecture about women's equal rights in labour relations. After lunch, you will be welcome by the chief of our institution, the rector Prof. Dr. Werner Teubner, a man. Our Vice-rector, Prof. Dr, von Stoephasius, is a man too, and so they are also the head of our administration, the chancellor, Mr. Sankowsky, and his assistant-chancellor, Mr. Tänzer, also the deans of the four faculties.

On behalf to these real-existing different chances for men and women, the Council of the European Community has created for instance the directive of the principle of equality in 1976⁷. It is to be added also art. 119 TEU (same income for the same job) and more special directives concerning equality between the sexes⁸.The directive of 1976 contents the defence of every discrimination in the frame of labour relations because of sexes. That means, that everybody has the same rights without any difference between the sexes, when he or she is looking for a job, when he or she has found the job and when he or she finishes the job for getting pension.

⁷ No 76 / 207 / EEC

⁸ No 75 / 117 / EEC; No 79 / 7 / EEC; No 86 / 378 / EEC; No 86 / 613 / EEC; No 92 / 85 / EEC

4. Motherhood and application for employment

When I was a student in the sixties, I looked for a job in a factory as a transport worker for the period of my holidays. For to make my applicant's paper completely, I got a question-paper, in which I was asked, whether I was pregnant or not. I answered correctly and I got the job. Fortunately I did not expect a baby, and therefore the employer had nor reason to keep me outside.

Nowadays, sometimes I am the one, who plays the role of an employer. As the member of my parish council I'm responsible to elect an education-person for our Kindergartens. The applicants are mostly young ladies, sometimes just married, and of course, me and my co.-members are often very curious to get information of the future, so how long the new employee will stay at her work. Of course, we don't need interruptions in the education work with little children.

And there you have already one reason of discrimination of women in labour positions. The advantage of natural productivity changes to the disadvantage of the danger to be pregnant. Because of this danger in former times, every female applicant, sometimes because of equality even the men, in particular in the civil service, were asked after pregnancy, not because of special protection, but for avoiding the employment of a new employee or worker, who was getting a baby. If the answers were not true, the employer had the right to annual the job's contract because of betraying⁹.

After the transmission of the European anti-discrimination-directive of 1976 into the German Civil-Law-Act in 1980¹⁰, the German jurisdiction has changed. In 1986 the German highest court for labour-law-cases decided that questions concerning pregnancy of applicants are a sort of discrimination of women and a violation of European law. But the German court made an exception: If there were only women under the applicants, the question for pregnancy was not illegal¹¹.

In 1990 the European court was asked by a court of the Netherlands (the Hoge Raad = the high council) in a comparable case. An of course, the judges in Luxembourg had no difficulties to find out, that it is always a forbidden discrimination of women, if they are asked for pregnancy, when they are looking for a job¹².

⁹ BAGE 11, S. 270 ff. = NJW 1962, S. 224 ff.

¹⁰ § 611a BGB, BGBl. I 1980, S. 1308

¹¹ Case 244 / 85 from 20th February 1986, NJW 1987, S. 397 ff.

¹² Case RsC 177 / 88 from 8th November 1990 (Dekker -/VJV - Centrom), NJW 1991, S. 628 ff.

In October 1992 the German highest court for labour-law-cases has accepted this European decision, but also with a new exception: The question for pregnancy shall be correct, if the excepted job will be dangerous for mother or child¹³. On my opinion a new sort of discrimination, because the question is not admitted to protect the motherhood but to take off the chance of a pregnant woman for a job.

5. Discrimination and damages

If an applicant is discriminated because of sex-reasons, he or she has damages. That means for instance the costs for the applicant's papers, stamps for the application and may be the fare for the train and a day of holiday for the presentation-test. All these costs are spent in vain.

Therefore the German civil law¹⁴ has predicted since the transmission of the European anti-discrimination-directive in 1980 an obligation of the employer for compensation of this damage in the case of discrimination.

In 1984 the European court declared that legal solution as inefficient to fight against sexual discrimination. Every member-state is free to find an own solution for this fight, but it has to have a real menace for those employers, who continue to discriminate female applicants¹⁵.

In 1989 the German highest court for labour-law-cases has given a compensation to a discriminated applicant because of violation of the personality-rights, but the court has limited the average compensation by the excepted wage of one month¹⁶.

Since 1994 we have in Germany a new legal rule, in which the limitation is strictly fixed on the wages of three months¹⁷. This legal solution is also, so decided the European court on 22nd April 1997 against the European directive of antidiscrimination¹⁸. Firstly, there was no reason for such a strict limitation of damages. Secondly, the European court did not agree with the German law, which depended on a compensation of damage on intention or negligence. Therefore we

¹³ Case 2 AZR 227 / 92 from 15th October 1992, NJW 1993, S. 1154 ff.

¹⁴ § 611a BGB - BGBl. I, 1980, S. 1308

¹⁵ Case RS 14 / 83 from 10th April 1984, NJW 1984, S. 2021 ff. (von Colson u. Kamann)

¹⁶ Case 8 AZR 447 / 87 from 14th March 1989, NJW 1990, S. 65 ff.

¹⁷ law from 22nd. June 1994, BGBl. I, S.1406, renewed by law-act from 2nd July 1998, BGBl. I 1998, S. 1694

¹⁸ Case RsC 180 / 85 from 22nd April 1997 (Draempaehl/Urania Immobilienservice oHG, RiA 1997, S. 247 ff., NJW 1997 1839 ff.

have had now in Germany the second renovation of our civil-law in that case following the jurisdiction of the European Court¹⁹.

6. Discrimination and quotas

For the fight against women's discrimination in reality some of our federal states have special anti-discrimination-law-acts for the applicants in the public sector. There is often prescript, that a female applicant has to be privileged, if there are less women in a comparable position than men. The condition is of course, that the applicants are equally qualified for the expected position²⁰. Of course, in reality this rule can mean a great disadvantage for male applicants, for - as I have already mentioned - nowadays you find everywhere men in the better positions. It will take a long time, until everywhere in the public sector you will reach the quota of fifty percent of women. Therefore the European court has not accepted a special quota of fifty percent for women in the public sector if the city-state of Bremen in 1995²¹. Two years later, 11th November 1997, the European court has accepted a nearly same rule in the state of Northern Rhineland-Westphalia, because here the law allows a substantial, individual decision of the public employer²². My attitude to those quota-rules: I am for equal rights for every human being, that defends a quota-privilege for the different sexes.

7. Discrimination and promotion in the public sector

Often women, in particular young women, have an obstacle in their professional career; those are their little children. If I regard to the start of my own life, I must confess, that my mother stopped her professional work as a teacher for caring for me. I suppose, that this was a good decision, and her success does justify it. For to allow young female officials the continuation of their professional career and as well the normal opportunity to get babies and to care for them, we have introduced the part-time-work²³. Because of equality, every officials, man or woman, can reduce his

¹⁹ § 611a BGB, BGBl. I 1998, S. 1694

²⁰ § 68 Landesgleichstellungsgesetz Berlin, GVBl. 1991, S. 8 ff.

²¹ Case RsC 450 / 93 from 17th October 1995 (Kalanke / Bremen), NJW 1995, S. 3109 ff.

²² Case RsC 409 / 95 from 11th November 1997 (Marschall / NRW), NJW 1997, S. 3429 ff.

²³ E.g. § 43 Landesbeamtengesetz Berlin, GVBl. 1979, S. 368 ff.; part-time-jobs: § 44 a

Beamtenrechtsrahmengesetz BGBl. I 1997, S. 324, formerly § 48 a Beamtenrechtsrahmengesetz, BGBl. I 1994, S. 1410

or her weekly time-table. By this decision, he or she reduces the wage and the future pension.

But there is still another disadvantage: Belonging to the different legal rules concerning the different public sector in the different German federal states a promotion to a higher position depends on your ability and also on the duration of your former work in the public sector. Until the nineties this time was reduced proportionally to the reduction of your part-time-work. That means, part-time-officials reduced their chances to get a higher position.

On 2nd October 1997, the European court saw in these rules a violation of the European anti-discrimination directive. Although the rule concerned all part-time-officials, men and women, in practice it concerned nearly only women. And because of this reality, the reduction of periods of service by part-time-jobs in the public sector means an inconvenience to women and is directed against European law^{24 25}. Nowadays we have a defence of such an discrimination because of part-time-jobs for officials in § 49 of the Beamtenrechtsrahmengesetz²⁶.

8. Summary

You have got an impression of the importance of European law and European jurisdiction for the fight against discrimination of women in labour positions. Thereby it is not often an intention of parliaments and governments to give less chances to women.

Often the different treatment of sexes belongs to long time traditions. Therefore, the look over the fence into the other national community is necessary for a better understanding of the own position. Surely, the approach of the different European peoples within the frame of European Union will give such a better understanding to us and of ourselves. And I am convinced, that also some European law-acts, everywhere accepted, will help us to a better common justice in Europe. Why not on the topic of equal rights to women and - let me add it - to men as well.

Thank you.

²⁴ Case RsC 1/95 from 2nd October 1997, RiA 1998, S. 94 ff.

²⁵ Case RsC 184/89 (Nimz / Hamburg) from 7th February 1991, NJW 1991, S. 220 ff.

²⁶ § 49 Beamtenrechtsrahmengesetz, BGBl. I 1994, S. 1410

Joy Foster

Women in Local Government in Britain

Women make up a large proportion of the workforce in the United Kingdom in the late 1990s. Despite their prevalence the labour market remains highly segregated both horizontally and vertically with women concentrated in particular occupations and confined largely to the lower levels of organisational hierarchies. This vertical segregation is common throughout Europe with some 40% of workforce being female and only 10% of managers being women.

The population of the UK is some 56.6 million of whom 51% are women. In 1994 71% of the women of working age were in employment and 54.6 % of them were working full time. The numbers of women in the workforce exceeded the numbers of men and whilst the proportion of women working had risen from 63 to 71% between 1979 and 1994, the proportion of men in employment had fallen from 91% to 85%. Despite the passage of the Equal Pay Act in 1970 women's wages were still only 80% of those of men and in the early 90s women made up three quarters of those employed in jobs within the lowest 10% wage band.

The public sector is a major employer with a particularly high percentage of women employed in some types of work. Central government departments comprising the Civil Service have some 444,000 employees of whom 51% are women. Local Government is a larger employer with around two million employees. Of these 66% are women. Within Local Authorities women are particularly significantly represented in Social Services Departments. These are the largest Departments within Local Authorities and employ 350,000 people in England and Wales of whom 86% are women.

It is against this background that I want to talk about the position of women in employment in England. I have a particular interest in social services departments which employ unusually high proportions of women staff and yet retain the characteristic of all large organisations in that they are dominated hierarchically by

men. I will present some historical information about those departments and their formation and later talk about the current situation as described by women directors.

I became interested in studying women in social services department mainly because I worked in one of these departments in the 1970s. and partly because they are unusual organisations in that their workforce is largely made up of women [some 86% of all employees are women] but they are like other organisations in that most of the people who manage them are men. Sometimes we are led to believe that this imbalance in the gender distribution of women and men is always, and has always, been the case. This is not entirely accurate as I will explain.

The development and background of Social Services Departments

Social Services Departments were established in 1971 following a major national review of welfare provision led by Lord Seebohm. His report, the Seebohm Report, recommended the creation of a 'family service' with generic social workers dealing with all the problems presented by any one family, rather than the families being dealt with by several individuals from different departments.

When the committee met in the late 1960s, welfare services provided by local authorities, were the responsibility of two major departments, the Children's Departments and Health and Welfare Departments. The former provided services to families with children, arranging to support their care or provide alternative care arrangements for children if their own families were not able to provide for them. Adults with mental health problems or with disabilities either as the result of injury or old age, were catered for by the welfare departments.

The children's departments are particularly interesting in relation to the history of women's employment. Within them we find a possibly unique example of organisations in which opportunities were created for and seized by women, albeit largely by middle class white women. As part of a feminist commitment to making women's experience and history visible, I would like to tell you something about these particular departments and their origins.

During the late 1940s when the welfare state was being established in Britain, many women were involved in the debates about the developments which were taking place. One of these, Myra Curtis was invited to chair a committee investigating the provision of support to children. This committee was predominantly made up of women [check composition]

Their report, the Curtis Report recommended the establishment of children's departments and in 1948 these were set up. This committee made a series of recommendations about the new departments including recommendations about the people who would head them, the children's officers. The report recommended that they be headed by someone with chief officer status within the local authority and moreover, the report took the unprecedented and never repeated step of referring throughout to the persons who would fill these roles as 'she.' And they were explicit about the reasons for doing so. They argued that they did this because they believed that the qualities which were to be looked for were more likely to be found in a woman than in a man. They used essentialist arguments. That is they argued that there were innate biological differences between women and men which rendered women more suited to the work required of a children's officer than men.

The committee drew particular attention to their deliberate use of gendered language making explicit reference to the fact that they were deliberately breaking with convention and using the feminine pronoun not because men should be excluded but because they felt that the qualities required in the post were more likely to be found in women. They set quite stringent criteria for these chief officers, particularly in the light of the general lack of access for women to higher education in the first half of the 20th century. The report states;

'The Children's Officer should, in our view, be highly qualified academically, if possible be a graduate who also has a social science diploma. She should not be under thirty at the time of appointment and should have some experience of work with children. She should have marked administrative capacity and be able to work easily with local government committees'

The report continued by specifying personal characteristics as well as qualifications

'Her essential qualities however should be on the personal side. She should be genial and friendly in manner and able to set both children and adults at their ease. She should have a strong interest in the welfare of children and enough faith and enthusiasm and be ready to try methods old and new of compensating by care and affection those who have had a bad start in life.'

Curtis Report 1946 paragraph 446

Thus the committee utilised essentialist arguments about women's 'special qualities' to good effect. They argued that this was a task which required particular personal skills and qualities and took advantage of the association of caring and in particular of caring for children with women.

In looking at the appointments which followed, the effects of their approach were startling. Of the 133 children's departments established, 96 were headed by women. This meant that for the first time women were present in significant numbers at chief officer level in local government. The situation was both unprecedented and has remained unique. It shows how important the legislative foundation of an initiative can be in creating opportunities for women or excluding them from them. The legitimacy accorded to women by this report created a climate in which their application for posts was encouraged and endorsed. The legal framework had been expressed in a way that was women friendly and supportive of their aspirations.

During the 1960s there were two major pieces of legislation in relation to children's services the 1963 children and young persons act and the 1969 children's act. At the time the association of child care officers cited this as representing an endorsement of the success of children's departments in lobbying for better provision for children to be enshrined in statutes. The legislation and general tenor of debate indicated a likely expansion in the provision of social welfare services and during this decade proportionately rather more men began to train for a career in social work, although they were always considerably outnumbered by women. The percentage of women qualifying has always been around 70% of the total.

As I mentioned earlier, In 1969 the Seebohm report was published proposing the establishment of social services departments. The tone of this report was very different from that of the Curtis Report in particular in relation to its description of the chief officer who should head the new departments.

*'...the head of the social service department must be able to give **his whole mind and time to the work of the department without other distractions** and should not be subordinate to the head of another department. He, along with the other principal officers should work as an equal member of a team under the leadership of the clerk in the manner in which the Maud Committee have indicated'*

[Seebohm Report Para 617]

The pronoun is masculine and there is also an emphasis on equality within the corporate team in an organisation where those teams very rarely included any women.

The masculine imagery persists into the person specification where the committee note of the director that ;

*....he will have to **weld** groups of workers differing widely in ranging professional outlook and tradition into a team with common objectives. He must be able to **command** the confidence of members, to persuade them to provide more resources for the service.....'*

[Seebohm report para 618]

The committee considered that 'very heavy responsibilities' would fall on the head of the new department. and suggested that there was no single profession in local government which combined the 'ideal range of skills' required of the head but that ideally most of the heads should be 'people qualified in social work.' At the time the highest proportion of professionally qualified staff were amongst child care workers and it was expected that they would dominate the appointments.

Seebohm reform and the effect on women's position..

Whereas women had outnumbered men in the appointments to children's officer posts, the Seebohm reorganisation effectively restored the male dominance which is characteristic of large organisations. Women were removed from the most senior positions in local government departments and the number of women chief officers was significantly reduced.

Of 171 Social Services Departments established in England and Wales in 1971 only 16 were headed by women. At the time there were concerns expressed within the House of Lords about the emerging pattern of the appointments. Baroness Wootton raised a question which resulted in her in effect being shouted down by 'several noble Lords' who received an assurance that there would be no intervention from the centre in the appointment process and no guidance would be issued to local authorities despite the fact that each director's appointment had to be approved by the Secretary of State.

The masculinisation of management had to some extent already been underway as the figures for the numbers of children's officers in the following chart indicate. Nonetheless women were still a substantial presence at that level.

What happened to children's officers? It is thought that many retired and there would be many who had been appointed in the late 40s who would be the right age to retire. But the women who were their deputies were not successful and my own research suggested that there was discouragement to women to apply for the posts at the time.

Interviewing women directors in the late 1980s about their career progress revealed both that the Seebohm reorganisation had been welcomed as representing recognition of the significance of social work and also that the opportunities which were being created were destined to benefit men.

Two examples illustrate the tone of this awareness.

A woman who was a deputy children's officer at the time recalled

I was discouraged from applying for a directorship by the Chief Executive. I was told that I was not old enough and had insufficient experience to contemplate applying for a job like that.

and another

I applied for the Directors job. I was encouraged to do so by a helpful personnel officer but didn't expect to get it [and didn't] I think it was to do with my youth and with being a woman. I was asked at the interview 'Do you think as a young woman you could manage the men?'

Of the 16 women who were appointed, five were appointed in County Boroughs. These Departments were destined to exist for only a short time as plans for Local Government Reorganisation were put into effect in 1974. At this time the numbers of Departments in England reduced to 108 and the numbers of women directors of social services fell to only ten.

The position was to remain unchanged for many years. In 1975 the major legislative initiative in relation to sex equality in Britain, the Sex Discrimination act was passed. But it was too late to prevent the exclusion of women from the management of social work which had occurred as men were already in place in the most senior roles.

Did the 1975 act improve the situation for women in Social Services Departments? The answer is 'not really'. In an article published in Community Care in 1987 I pointed out that the proportions of women in senior management in the largest social services departments, those in County Council Authorities was actually reducing and that whereas in 1974 the majority of Departments had at least one woman in the senior management team, by 1989 more than half of the Departments senior management groups were entirely male.

The current position

In 1997 the position had changed somewhat in respect of the numbers of women directors of social services. Further local government reorganisation had again increased the numbers of Departments and of 131 authorities, 26 had women directors.

Despite the numerical increase in women the proportion remains very small and progress for women has been extraordinarily slow. Despite flurries of interest at government level such as the cross party initiative in the early 1990s, called opportunity 2000 in which organisations were invited to commit themselves to improving the representation of women and to set targets for the millennium, action to ensure equality of opportunities has been largely lacking. In the last election though the number of women members of parliament showed a substantial increase and for the first time exceeded 100. It may be that this greater presence in the government will ultimately be reflected in measures which secure equality of opportunity for women in employment in the United Kingdom.

Children's Officers

	Women	Men	Total
1948	96	37	133
1970	77	97	174

Directors of Social Services by Gender

	W	M	Total
1971	16	c156	c170
1974	10	98	108
1987	10	98	108
1992	22	86	108
1997	26	105	131

Marie Tuula

Equal rights for women in Sweden

Introduction

Professor Wendt, doctors and students. It is a great pleasure for me and for the Swedish students from School of Public Administration in Göteborg to be here in Berlin to discuss the interesting topic Equal rights for women in Europe. Special interest is it to do a comparison between the country's national law in the specific area.

A number of steps towards equality between women and men have been undertaken in Sweden the last ten years. Since 1985 parliament has approved three government Bills on equal opportunities for women and men. This marks a new approach. Equality between women and men is now an important area of government policy, with same standing as other political issues. The goal of the Equal opportunities policy is to achieve equal rights, responsibilities and opportunities for women and men in every essential of the area of life. One cornerstone for the policy is that women and men shall have equal opportunities for economic independence and for supporting themselves through paid work. Therefore the Swedish government had been given the task of charting and analysing distribution of economic power and economic resources between women and men. This work started in 1994 and are just now finished.

It has become increasingly clear that equality is more and more a question of how power and influence in the society are allocated between women and men, that measures to achieve equality cannot be more effective and achieve greater impact until the unequal power relationship between the sexes at an overall level in society, and between individual women and men is revealed, recognise and taken into account in all areas of policy. This means in my opinion that effort for equality must not only be focused on the changing of attitudes in general or be concentrated solely on increasing women's resources and knowledge, but also be focused to a greater

extent of changing the structures in society which contribute to maintaining gender segregation, female subordination and male domination. In this context the role of men and the importance of their participation in work for equality - including willingness to forgo power in order to make way for increased power for women - cannot be sufficiently stressed.

In my lecture I go further with *terms* in the area and then describing the *overall goal* as expressed in 1994 Parliamentary Bill. Then I give some information about the *National Machinery for Equality between women and men* and tools used for equality. Then I discuss some of the *myths in Europe* about the Swedish equality and talk about women's rights, women's human rights, the equal opportunities Act, the Equal Opportunities ombudsman and other legal rights. I will also shortly discuss women and men in the labour market. I finish my lecture with some perspectives for the future and year 2000. The question is how to achieve shared power and shared responsibility?

What is equality and equal opportunity ?

In Sweden it means equal rights, responsibilities and opportunities for women and men to;

- * pursue work which provides economic independence
- * care for children and home
- * participate in politics, unions, and any other social activities

In Sweden the term *equality* refers to parity in relations among all individuals and groups in society. Underlying this notion is the belief that all people are of equal value, regardless of sex, race, religion, ethnic origin, or social class. One of the cornerstones in *Equality is Equal Opportunity*.

You also have the term *mainstreaming*. Mainstreaming is recognised in Sweden as a tool, in the efforts to achieve the goal, which is equality between women and men. It implies not only the integration of a gender perspective into all policy areas, but also

strategic planning accountability and monitoring in the short-term as well as in the long-term work.

There are three important cornerstones in the strategy used;

- * Making gender visible
- * Increase the knowledge of issues concerning women and men
- * Developments tools and methods .

Swedish women and men have had the same formal rights for long time. There is no gainsaying that the jure prevails in Sweden. There is also particularly in an international perspective a considerable degree of the facto equality between women and men. The progress made has occurred both in terms of women's participation in decision making and their participation in labour market. Reforms which have been pursued consistently in the field of economic, social and family policy have contributed this development. This includes the introduction of separate income taxation for women and men, which in the combination with women's increasing participation in labourmarket, can be regarded as one of the major factors in promoting equality. There are also a considerable degree of political consensus among the major political parties on the main goals for this policy. These overall goals, as expressed in the 1994 Parliamentary Bill can be summarised as follows:

- * An equal distribution of power and influence between women and men.
- * The same possibilities for women and men to achieve economic independence.
- * Equal terms and condition for women and men as regards entrepreneurship, work, terms of employment, conditions in working life and opportunities for development at work.
- * Equal access for girls and boys, women and men, to education, including the same opportunities to development personal ambitions, interests and talents.
- * Equal responsibilities for women and men for the work in the home and with children.
- * Freedom from gender specific violence.

Women's influence has been made since the 1980s in most of the above fields. Women's influence in society has increased and in recent years, the public debate concerning various aspects of equality between women and men has been very intense. It may be said that this debate expresses the impatience which many women feel despite the considerable progress made at the slow pace of equality endeavours. It is sometimes thought that the expectations of rapid and effective advances built up by the intensive reform efforts of the 1970s and 1980s have not been fulfilled in all respects. This closely linked with the difficulties involved in progressing from the jure equality and de facto equality. The debate has revealed many deficiencies but it has also significantly contributed to greater awareness in Swedish society of difference in conditions for women and for men, and hence to a greater willingness to change the situation.

The national machinery for equality between gender

The National machinery for equality between women and men in Sweden they are divided in different areas.

** The minister for equality affairs*

The minister for equality affairs at the ministry of labour holds the overall responsibility for the government's policy for equality. At the ministry of labour, there is also a state secretary Political advisors and a special division for these issues.

** The equality affairs division inter alia with :*

Supporting and pushing through the work for equality centrally and regionally, and developing methods for the integration and implementation of a gender perspective *mainstreaming* in all policy areas as were defined it in the beginning of this lecture.

* Reviewing for example, proposals from other ministries regarding bills and written communication etc. to Parliament terms of committees and boards in order to ensure that a gender perspective had been considered and in order to achieve an equal representation of women and men in various organs in the state sector.

The equality affairs division should also;

- * Administering budget and appropriations issues which relate to the Equal Opportunities Ombudsman and the Equal Opportunities Commission as well as matters concerning the Equal Opportunity act.
- * Responsibility for co-operation within the EU, Nordic countries and international organisations regarding equality issues.
- * Processing applications for funds for developmental work and projects within this field.
- * Providing information regarding the Governments policy and work for equality.

It is very important to know that equal objectives cannot be developed in isolation. They must be integrated (*mainstreamed*) into all areas of policy and society. The gender perspective must always be taken into account when analysis is carried out, and in the early stage of the development of proposals. The question of the effects of decisions on women and men, respectively, should always be raised, just as it is in the case of the consequences for different groups in society.

The equal opportunities ombudsman

The primary task of the equal opportunities ombudsman is to ensure compliance with the present Equal Opportunity Act. This takes place through advice and information and through negotiations with individual employers and their organisation.

The ombudsman also provides assistance in disputes regarding violation of the Act's ban on sex discrimination and may in conjunction there with, also invoke other legislation e.g. employment security act and parental leave act. disputes concerning discrimination are tried by the labour court. Another important responsibility of the Equal Opportunities Ombudsman is to inform the public and in other suitable ways facilitate equality in the workplace. Through information and education the Equal Opportunities Ombudsman also works to achieve equality in the area of education.

Myths in Europe about Swedish Equality between women and men

In long time there have been many myths in Europe about the Swedish equality of women and men. There are also myths about women and men on the labour market. Further I would like to describe them and give some comments about it's phenomena.

The *first myth* is ;

* Nearly all women in Sweden work in the public sector.

-The truth is that just over one half of the women at work have public sector jobs, while slightly less than one half work in the private sector. The figures for men are twenty and eighty per cent respectively.

The *second myth* is ;

Nearly all women in Sweden work part-time

-The truth is that sixty percent of the women have full-time jobs. Most of the remaining forty per cent who work part-time have so-called long part-time, that is to say, they work for at least six hours a day. Many of them hold full-time posts but utilise their statutory right as parents of children aged eight and less to reduce their working day. Only ten per cent of the men work part-time. Women say that they work part-time to enable them to combine work with domestic chores, while men give studies as the reason for working full-time. An other reasons for working part-time is that it is difficult to find full-time employment.

In the 1990s have high unemployment effected both women and men, but in different ways. It is important to show, take in make use of knowledge about people's different conditions in and out-side the workplace from a gender perspective. The Ministry of Labour runs a project which follows the development in working life and on the labour market very thoroughly and with regard to Equality. The aim is to adapt labour market policies better to suit the needs of both women and men. The project is known; Samverkan arbete, kön. - Interaction, Work, Gender.

The *third myth* is ;

Women are leaving the labour market and are on their way back to the kitchen sink.

-The truth is that women in Sweden are doing quite the opposite, in spite of periods of high employment, women have strengthened their position on the labour market. The number of women working at home, in every day language housewives, has fallen considerably during 1990. Women spend more hours in paid jobs than previously, the proportion of full-time job has increased and more women are getting themselves an education. Women work more at home and then have work they don't get paid for.

The *fourth myth* is ;

In the 1990s women have been forced into the labour market because they cannot afford to stay at home.

-The truth is that in most European countries, women are becoming increasingly engaged in paid work regardless of economic developments. In probability both men and women work primarily because they need to support themselves. Furthermore it is important to have a job with development potential. Quite simply for both men and women priority work and education.

Women's rights is the same as human rights

Promoting and protecting human rights through out the world is an important part of Swedish foreign Policy. Women's rights in Sweden are safeguarded by the Constitution and by several laws. In a constitutional rule, Chapter 2, article 16, 1974 Instrument of Government:

"...No Act of law or other statutory instrument may entail discrimination of any citizen on grounds of sex, unless the relevant provision forms part of efforts to bring about equality between men and women or relates to compulsory military service or any corresponding compulsory national service..."

The Act aims at "promoting equal rights for women and men with regard to employment, conditions of employment and other conditions of work as well as opportunities for personal development in employment" sec. 1. The Act protects both men and women but it "aims at improving primarily women's conditions in working life" sec. 1. The Act applies to employees and job seekers alike. The Act contains two sets of provisions, one on active measures to promote equality and one on prohibitions against discrimination in individual cases.

Sweden was one of the first countries to ratify the Convention on the Elimination of all Forms of Discrimination against Women on 2 July 1980. The Convention entered in to force in Sweden on 3 September 1983. The purpose of the Act was to promote equality between women and men with respect to employment, condition of employment and opportunities for development at work. It prohibited discrimination on grounds of sex and also prescribed that employers should consciously make active efforts to promote equality between women and men at places of work. After ten years in force, the Act and its implementation was subject to an evolution which was performed by a government Committee. As a result of this evaluation, a new and stronger Equal Opportunities Act was adopted 1991 and entered into force in January 1992. Certain reinforcing amendments to the new Act were proposed by the Government in 1994.

The *first part* of the Act consists of Rules requiring employers to take active steps to promote equality in the workplace. It specifies that employers must promote a well balanced distribution of women and men in various types of work and employ categories and make special efforts to attract applicants of the underrepresented sex. Employers must prevent sexual harassment and make it easier for both female and male employees to be able to combine work and parenthood, as well as prevent differences in pay and in other terms of employment between women and men who perform equal work or work of equal value. Each year an employer who employs ten or more employees has to make surveys of pay differentials between women and men at the workplace. The survey and the measures that the employer plans to take as a result of the survey, have to be included in the annual plan of action which the employer must draw up and submit to the Equal Opportunities Ombudsman on request. A progress report on the proposed actions for the year must be included in the plan for the following year. An employer who does not comply with the requirements for these active measures for equality at the workplace can be ordered by Equal Opportunities Commission at the request of the Equal Opportunities Ombudsman to pay a fee. The fee will be about 5000 - 10000 Swedish crones.

The *second part* on the law consists of Rules which prohibit an employer to apply discrimination to an employee on grounds of sex. The rules cover, for example the engagement, terms of employment, including pay, the promotion or training of

employees, the direction of work and the termination of a contract of employment. There are also a ban on harassment. Disputes concerning sex discrimination are treated as labour disputes and adjudicated by the labour Court. Sanction consist of fines paid by the employers to employeesfound have suffered discrimination. As I have mentioned above Sweden also have an Equal Opportunities Ombudsman. The main duty is to secure compliance with the provisions of the Act.

Generally speaking the background of the Act is the fact that the labour market still is segregated to a great extent along gender lines and that women are underrepresented in higher positions. In addition jobs typically performed by women are less well paid than typically male jobs and women also earn less than men in the same sector in the economy.

Women also have other Legal Rights. The most important is the Swedish *family law*. The cornerstone in this legislation is to put women and men on equal footing in marriage and to protect the financially party in event of divorce or death. A new *Marriage Code* entered into force in the beginning of 1988. The new Code contains rules which protect the financially weaker party in the marriage when property is divided as a result of divorce.

An other statute is the *Code of Parenthood*. The parental Leave Act and Provisions in the National Insurance Act is to lay the foundations for shared responsibility between women and men for work in home and with children and thereby give priority to what is the best for the children. The Parental Leave System. The legislation concerning violence against women has undergone several changes in the 1980s and early 1990s. The aim has been to strengthen the rules and to further recognise the vulnerable position of the victim. The Committee on the distribution of economic power and economic resources between women and men: Kvinnomaktsutredningen in Swedish, have suggests some changes in the law about violence against women.

Women and the labour market

As earlier mentioned the proportion of women in the labour force increased continuously from 77 to 85 percent while the proportion of men was stable around

90 per cent. During this period and up to now the situation in the Swedish labour market has changed.

In the end of the 1980s the market became overheated with high labour force participation and very low unemployment. As a result of the recession in the early 1990s employment took a downward turn. The situation in the labour market is now a bit brightening in that employment is picking up. Women and men continue to be found in different sectors of the labour market. The occupations where women dominate are mostly

concerned with the provision of services, treatment and care, whereas material values are more typical in men's occupations. There are some indications of positive change towards a more equal participation in individual occupational areas, but it is not possible to discern any clear trend. Even though men and women are represented in all occupations, the annual Labour Market Survey shows that only five out of fifty-two occupations have an equal distribution of the sexes.

Despite many efforts, Swedish women and men still work in different sectors and do different jobs when they work in the same sector. The segregation is one of the major remaining obstacles to equal opportunities between women and men in Sweden. The sex-segregated labour market is thus an issue of the very terms on which women and men are employed; working hours, status, working environment and pay.

Perspectives for the future

One of the major challenges of the coming decade is to develop a gender perspective in macro-economic policies and programmes. Sweden provides financial support for research in this area.

Another important issue with gender implications is the environmental degradation. The impact on women of HIV and other sexually transmitted diseases, and population issues in general, have to be analysed from a gender perspective. Integration of a gender perspective is not only of benefit to women, but is essential for development. This requires considerable re-working of conceptual and analytical frameworks.

Crucial gender issues towards the year 2000. To achieve shared power and shared responsibility we in Sweden have to:

- * Stop sex segregated education choices
- * Stop sex segregated occupation and profession choices
- * Improve women's terms and influence at work
- * Actualise equal pay for work of equal value
- * Increase men's participation in the care of children and home
- * Guarantee freedom from sex presence in decision-making and advising organs

It is important that the methods and tools used to promote development towards equality between equality between women and men are in harmony with the approach described in the Government Bill Shared Power-Shared Responsibility. The Goal is, as it already had been said, to change structures in various areas of society in order to promote equality and counteract the uneven distribution of power between the execs in all policy fields. The tools in the area is:

* *Gender statistics*

The Gender statistics are for both women and men in society

* *Research on women and equality*

Research on women and equality issues has been very important for calling into question the traditional view of power relationships between men and women. Equality policy must be based on knowledge and the analysis of the causes of inadequate equality. For this reason grants for such research have been increased.

* *Education on Equality*

Equality is an area of knowledge. The Government has allocated funds for developing and assessing courses in equality for specific professions. The purpose is to give those responsible for equality work at the work places.

* *Project funds*

It has been seen from experience that project work is an effective way of increasing efforts towards equality between women in men at workplaces. Model and methods can be developed project form which can later be applied in regular activities. Funds have been allocated in the state budget for a number of years for such project.

In order to meet challenges at the global level, Sweden intends to further develop its overall gender policy for development co-operation. The process, which is part of the Swedish preparations for the forthcoming major UN-conferences, will involve identification of the major gender issues in the next decade. The outcome of this process will be transformed into a Swedish policy document which will form the basis for the development of concrete strategies by all implementing agencies. In this work the aim is to develop mechanisms to ensure the accountability of all organisations and ensure integration on the gender perspective into all planning procedures. Improvement of the reporting of results both positive and negative is a key for the future in order to facilitate further development of policies and strategies.

That was a short overview of the Swedish situation. If you have any question please ask them.

Christine Bucker-Gärtner

The Berlin reform of the administration: better career opportunities for women?

Employment in the public service sector especially for women is highly attractive. For in contrast to the private economic sector there is no sexual discrimination in the allocation of wages. Another incentive is the opportunity to work part-time, that makes it possible to work in qualified jobs irrespective of family commitments. In many Berlin administrative bodies - women, like in other German local and federal state administrations - are in the majority of the employees.

Almost 20 years ago a research report on the equality in opportunities for women and men in the Hamburg public administration was published under the title „Women ‘conquer’ the public service - but not the good positions“. Even though there exists, for several years now, an institutionalised promotion of women in the form of „Frauenbeauftragten“ (women’s representatives) and equality laws, the above statement is still valid.

At the present time I work on a research report for the FHVR Berlin on the topic „Equality for women in the process of modernisation of public administration“.

In the report, the following points should be specifically analysed:

1. How does current research explain the findings, that on the one hand more than half of the employees in the public administration are women, on the other hand, however, only few women are in executive positions?
2. In how far has the equality for women in the current process of Berlin administrative reforms in particular, and in the Federal Republic of Germany in general, been taken under consideration?
3. What chances does the modernisation process offer to the professional development of women in the public administration?

Today, I would like to give a report on my first research results. Some female scientists answer the question „Why there is a relatively low number out of the many

women employed in the public administration who pursue a career“ with the following statement: „Men - or even better - Male coalitions prevent the promotion of women“. In the West of Berlin - much less than in the East of Berlin - a lot of male executives still think: „Women do not want to pursue a career“. Sometimes simple explanations are the best. But when looking for causes of the under-representation of women in executive positions of the administration the explanations do not go far enough.

I think that there can be stated both individual and institutional promotion obstacles. Social general conditions, like the provisions of the create facilities or sufficient shop opening hours play an important role. Two years ago I carried out interviews with ten female graduates of the FHVR on their career advancement in the administration. All women questioned were from West-Berlin and reacted solely to the word ‘career’ with rejection. My question: „Do you deliberately make contacts to pursue your promotion“ all women questioned answered „No“. In case they had risen to an executive position, they attributed it to „luck“. The traditional gender-specific socialisation, according to which promotional aspirations were not proper for women, is mirrored in these answers and views.

The women interviewed both named personal and institutional reasons for their partial lack of willingness to pursue a career. Most of the interviewed were put off a further career advancement by the hierarchical structure. They feared the strains on their free time and the „loneliness“ of an executive position. The relationship to their colleagues was more important to them than more power or money. They wanted enough time for their private life. The women also criticised the strong division of labour and fragmentation of administrative tasks. Some of the interviewed hoped from the administrative reform for a reduction of hierarchies and more recognition of the social competencies of women. Others feared the risk, that reforms in the administration might lead to their dismissal.

In Berlin the hopes for an improvement of career opportunities for women have (not yet) fulfilled. Among other things this is due to the fact that women are not sufficiently represented in the executive bodies working on the reform of administration, as it is actually intended by the law for quality. The bodies were allocated according to previous executive positions. And these were and still are occupied by men. It was only after considerable political pressure was exercised when the Berlin Senate

stated the „consideration of women’s interests and women’s promotion“ as a central aim of the reform of the administration. In the everyday life of the Berlin reform process these political aims, according to my own impression, are, however, more or less disregarded.

Nevertheless I see positive and interesting changes for women in the administration. Women and hopefully men might use the new opportunities - flexibilisation of the work time and possibly the work place, e.g. to be able to do work at home - to integrate job, family and leisure-time meaningfully and in a balanced way in their life.

Other structural changes possibly might also bring along with them disadvantages for female employees. It is known from the industrial sector that the reduction of hierarchies has led to a drop in the number of medium executive positions. Positions that were occupied by women during the last few years. Women have to be made aware of that danger.

With the scientific accompaniment of the reform process I intended to encourage women to actively take part in the modernisation of the public administration to have better career opportunities in the future.



Workshop 1

The Present Situation of Women in Europe

- Comparative Country Analysis -

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◆ Introduction

In this analysis, we aim to discuss and compare the position of women in three European countries: Germany, Great Britain and Sweden.

We also aim to offer suggestions for improving the European policy on equal rights of women. There are few figures in this report because the figures from the different countries were not comparable so it would make difficult and confusing to compare.

„Women perform two thirds of the work but they have only one tenth of the global income and they own only one percent of the land.“

1. Women's situation in Politics

Of the three countries, Germany, Sweden and Great Britain, Sweden has the most progressive policy towards women. Women are equally represented in the parliament and the government. Whereas in Britain and Germany are a small group within the parliament (Germany 26% and Britain 18%), in the Swedish parliament are 43% women.

In all three countries the conservative political groups have less women than the Socialists. In Sweden and Germany there are less women in local government positions than there are in the parliament, but in Britain there are more. The reason for this might be that it is better for publicity to have women in higher, more noticeable positions rather than in local government, where it is not as prestigious or noticed by the general public. In prestigious positions in the society women are under-represented. The trend, which we have outlined above, could be because, to be a MP and to sit in the parliament in Sweden is not as prestigious as it is in Britain and Germany. Neither Germany nor Sweden have ever had a female leader like the Mrs. Thatcher in Britain, who was the Conservative Prime Minister from 1979 to 1990. The leaders of political parties are in less cases women - in Germany no woman has ever led a major political party; in Sweden it was the case only in smaller parties while Mrs. Thatcher in Britain was the only woman, who ever led a major political party. It is also a common trend in Britain and Germany that member of the executive are predominately male, although it recently has changed in Britain. However, in Sweden 50% of the executive are female. In Germany there are two female ministers in the federal executive (minister of family, women, youth and senior citizens; minister for the environment). In Britain there is only one minister female (minister for Northern Ireland), while in Sweden there are a lot of female ministers working in all parts.

2. Women's situation in the armed forces

During war-time women were conscripted to maintain their home countries and care for the soldiers in various ways. For example they worked in hospitals and field

camps. This was a very traditional female role outside the home and prompted the trend of women's work.

Today women are formally equal in the armed forces in Britain and Sweden. However, there are only a few women in the Swedish and British armies because the assessments are designed for men. British women are not allowed to fight on the front line, therefore this kind of equality is not as strong as it first seemed. In the German army women are only allowed in the Music Corps and to work as nurses and doctors, but there is an ongoing discussion to improve this situation.

3. Women's situation in the work place

All three countries have laws regarding to an Equal Pay Act, and the legislation of the European Union is similar. According to the German Basic Law men and women are equal (art. 3 sec. 2) and ensure that men and women performing the same jobs with the same rates. In Britain there is a Sex Discrimination Act from 1975, which ensures that employment by an establishment in Great Britain does not discriminate against women. In 1994 the second federal Equality Act (Zweites Gleichberechtigungsgesetz) was stated in Germany. It says that the family and the job should be combined easily and that women should be promoted in proportion with the percentage of unemployed women. Moreover there are in the different states (Länder) of Germany special state-law-acts concerning equal treatment of sexes, e.g. the quota-treatment in job positions. Those acts arouse women's commissions for all public service institutions and sometime also local women's commissions. Unlike Britain, where a majority of the initiatives are voluntary, such as „Opportunity 200“, the Swedish law is more prescriptive, which forces social change in all parts of society, e.g. all companies and organisations have to have an Equality Plan. There is also an Equality Ombudsman, who ensures, that the legislation is obeyed; Britain and Germany have similar systems. This is a representative of a broader structure. In Britain the number of women in the workforce actually exceeds the number of men, but 43% of working women are employed in part-time contracts with less pay and fewer employment rights. In Sweden 60% of working women have full-time jobs, whereas in Germany 62% of all women aged 15 to 65 years do work.

In all countries women are significantly over-represented in the lowest income groups.

The situation is gradually improving. Job segregation is generally still a feature of women's participation in the labour market, while women still tend to work in a more limited range of occupation than men. For example, more women work in service-industries, nursing and teaching jobs, as it is mostly in these fields of work, where they have the chance of promotion.

4. The effects of maternity

Provision is made for women and to some degree men to make time off work, when they have a family. In Germany a full salary is paid for six weeks before birth and eight weeks after birth. Afterwards a payment of maximal 600,00 DM per month, if the mother or father don't continue working is paid for another two years depending on the income of the employed partner. This time allowance can be shared between the mother and the father. Thereby there is the possibility of part-time-jobs in the public sector. In Sweden the parliament decided in 1995 that one month of the benefit provided (85% of the wage for the first 30 days - the next 390 days 75% of the wage is provided) may be used by the father and, in our opinion, it would be beneficial for Sweden and subsequently for Europe, if this became law soon. In Britain in contrast full wages are provided for the mother for six months, which may be taken before or after birth compared to the father, who receives wages for three days only. In all three countries the state pays Child benefit. Maternity break and part-time-working is a strong factor affecting the pension in all three countries as it is a chance of promotion and job opportunities.

5. Women in the academic world

In Britain, Sweden and Germany participation in higher education is virtually equal, a trend, which has only occurred in recent times with increased participation by women, but there is a difference in the choices they make; in general men choose more technical subjects whereas women choose more social studies. This trend is currently changing, we feel. Proportions of teaching staff vary - in elementary schools they are predominately female, although , as you are move up the sector into

secondary and higher education, there are more male teaching staff, especially in the higher positions.

6. Why do these differences exist?

History shapes the way we are today. World War II had cataclysmic effects on the whole Europe.

Germany had to begin again, Britain had to rebuilt and Sweden remained virtually untouched. Maybe, this could explain, why Sweden is so advanced especially concerning women and equality. The legal systems in all three countries are different yet all have seen developments in women's positions in society with an increase in legislation regarding equal pay, sex discrimination and protection from harassment. The war was the initial spark highlighting the fact, that women had the capacity to go out to work, and the return of the men from the war, and the loss of women in these jobs encouraged women to be independent. The differences between Germany and Sweden originate from 50's and 60's, when the countries chose a model Welfare System. In Sweden one hoped, that the public sector would take over the role, which the family, especially the women, had had before, so much of the work was removed from the unpaid work in the family to paid work in the growing public sector, like the former East Germany. In the former West Germany they chose another, more conservative model, where the woman remained at home taking care of children and elderly relatives, which was very similar to the situation in Britain. With the reunification in 1990 the system of child care was also reformed and returned to a system similar to that in the former East Germany.

7. Future aspirations for European policy

All three countries are starting from different situations, but, as Europe is developing towards the common labour market, a consistent policy is required across the continent.

Most of the policies of the countries seem to overlap. In our opinion, a coherent policy would promote a more United Europe. It would be unwise for any government to reject any proposal regarding this important topic of equality; this would encourage a lot of criticism. Therefore, every proposal should be successful.

We suggest and aim for the following:

- a consistent policy across Europe;
- full commitment and support for the concept of equality;
- a plan for educating young European citizens through regular exchanges, conferences and also between countries;
- making the responsibilities regarding to a stricter control of discrimination in member-states;
- making the women aware of their opportunities and rights and encouraging them through networks to take their opportunities and advantage of the laws against discrimination.

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Workshop 2

The EU's decision on the position of women in the public administration and the different national ways of implementation

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◆ Introduction

Since 1975 the importance of the equality between men and women has been in the centre of discussion when the directive relating to the application of the principle of equal pay for men and women.

We, as a group, hope that this kind of discussions will continue in the future for more improvements to take place. We have put a lot of emphasis on the background information such as the variable legislative processes and the different statutes. In order for one to understand the implementation of the directives of the European Community one has to be aware of the processes and the different national and international bodies.

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1. The Swedish legislation process

The legislation process starts with an initiative from either the Government or members of the Parliament. Since the Government has its Government-office provide it with valuable expertise, these bills (proposition) are more likely to be accepted by the Parliament than those proposed by members of Parliament (motion).

This expertise often is organised in the shape of temporary government committees. Since the Swedish ministries are small compared to other EU-countries, this is the only way to collect important information. Because these committees are not permanent organisations it often means, that they are flexible, they are not bound by traditions. The committee sends the issue for consideration to different bodies e.g. universities and trade unions. This is probably due to the Swedish political culture of compromises where all concerned should be able to speak. A committee is set up by the government which also nominates the members and the chairman. Moreover the committee consist of two kinds of experts; permanent and temporary. Permanent experts participate in the committee work on the terms as members but have no

votes. Temporary experts are called for a specific occasion, like a hearing. Finally the committee consist of a secretary. The committee consideration is put together by the ministry and is made as a government official report (SOU), which is one of the bases in a government bill.

After the presentation of the bills, they will be sent for consideration in the appropriate committee. Later the committee has to its report to the in Parliament, where it will be discussed and a decision will be made. If the bill is accepted by the Parliament it will be sent to the Government to be implemented.

Sweden has two kinds of examining legislation's, preliminary examination and post examination. Preliminary examination is executed by the Council of Legislation, which consists of at most four divisions, each three members. These members should be one Justice of the Supreme Court, one Justice of the Supreme Administrative Court and one "well versed in the law".

There are no rules saying that a bill has to be sent to the Council of Legislation, but there is a rule saying that some should be sent to the Council of Legislation, e.g. errands concerning freedom of speech and taxation. If you choose not to consider this rule you have to have specific reasons. The reasons have to be motivated by the Government. According to the Swedish constitution (regeringsformen) 8:18 the Council of Legislation has to consider the bill from the following five points of view.

1. How the bill stands in relation to the constitution and the other statutes,
2. How the different parts of the bill stands in relation to each other,
3. How the bill affects security of life and property,
4. Whether the bill is satisfying the designated purposes and
5. What problems may occur during the practical usage of the law.

Even the committees have authority to gather a statement from the Council of Legislation. A committee is obliged to gather a statement if five or more members require it.

Post-examination of the laws are handled by the bureaucracy and the courts together. The authorities that uses a statute, are obliged to check that it has been enacted, that the right body has prescribed it, that it has not been cancelled and that it is in line with the constitution. If the government or the parliament is the legislating

body, the authorities can only put the law aside if it is obvious that it is not in line with the constitution.

Sweden has no Court of Constitution, and the control is spread over many authorities.

The ultimate power of legislation is given to the Parliament, with the exception of the EC-constitution and the European convention. Laws can only be made by the Parliament, but the power to make ordinances can be delegated to the Government. Such a delegation has to be made as a law.

If laws and ordinances contradict each other one does not interpret, but has to look at the hierarchy in the Swedish system. First there are the parliament laws, then the ordinances of the Government, and last but not least the ordinances of the Administration.

Among the Parliament laws there is also an hierarchy:

1. The Constitution can only be changed by two parliaments with an election in between.
2. Moreover there is a form of semi-constitutional law, that needs qualified majority to be changed. This kind of form is used when one wishes to regulate the way of the parliament works.
3. Finally we have the general law which needs absolute majority to be put through²⁷.

2. British Legislative Process

In Britain there is only one system for both, criminal law and civil law.

The system consists of: The Magistrates court has three justices of the peace, and a clerk of the court, who advises the justices on the law. In Britain most of the cases heard are dealt by this type of court. If the magistrate court feels that it cannot deal with the case, it passes this case up to the crown court.

The crown court consists of one barrister for defence and one for the prosecution, controlled by the judge and heard by the jury. Very few cases in Britain are heard in the crown court compared to the magistrate courts, because of the cost involved. After the verdict to the case is given, both of the parties may apply to the high court of appeal. This court consists of three ranking judges, who listen to the appeal and

²⁷ Petersson Olof, Svensk Politik

make their decision on the case. The rules governing are complex what kind of cases can go to the court of appeal.

After this there is another appeal court which each party can apply to, the so called House of Lords.

Also within the cases precedent can be set which might determine the outcomes of future cases and on which present cases can look towards to help their case. These are judgements that judges have made so they are written down and become case law.

As we already said, there are two types of law process, that of criminal law and civil law in the British system, but they both use the same system. Sex discrimination comes under civil law under the British system. There are also two types of law process those of statute law and that of common law with statute law overrides common law.

Firstly the **statute law**:

There are two processes here, the first is that the government decides on a law and then presents this bill to the House of Commons for a decision on the viability of the bill, if it is agreed upon it then goes to the House of Lords. After that the bill is debated further, if agreed upon then it proceeds to the Queen to receive royal assent and it becomes law. If at any stage the bill is not agreed upon it is sent back to the house of commons for further amendments.

The other way in which a bill may become law is if a private member of the house of commons (member of Parliament) presents a proposal that they wish to be considered a law. The same process as above is applied for this way also.

Secondly the **common law**:

This is the process by which precedents already established in law / society either in written or unwritten form make up part of the laws within Britain.

3. German Legislation Process

In Germany we distinguish as in other European countries between different law rules:

the parliamentary law-acts, the executive regulations and the statutes of local communities (cities, towns, villages) or other independent institutions of public law, e.g. universities.

As for the authority, which is responsible for law-making, it is divided into the Federal law (made by the Federal republic) and the State's law (made by one of the sixteen different federal states).

The most important national law regulations are the parliamentary law-acts, which are divided and fixed by the parliament itself: Federal law-acts by the national German Federal Parliament, the so called Bundestag, state's law-acts by the state's parliament is called Landtag. Federal law-acts have to be proved by the second chamber, the Federal Council, which is in German the Bundesrat. It is an assembly of representatives of the state's governments. Normally the Federal Council has the right of appeal, which can be refused by the Federal Parliament (Bundestag). In several, very important cases, e.g. modification of constitutional law, law-acts concerning the taxes and the incomes of the states, the Federal Council has the right to stop the law-act finally. Here the acceptance of the Federal Council is necessary.

Within the frame of parliamentary law the government or a ministry can create the so called executive regulations. The condition for such a modification of the constitutional division of political power is a special authorisation in an parliamentary law-act.

A parliamentary law-act also can give the competence to the local communities or independent public institutions to set statutes within the frame of their autonomy, e.g. the amount of local taxes, building-regulations and rules of university-examinations.

4. Equality between the sexes within the law-making process in Sweden

Each committee works under a department, and the gender situation depends on what department the committee works under. For example, the committees that work under the social department consists of 48% women, while the committees of the finance departments only consists of 34% women. If you put together all committees the women are 39%.

The government is totally equal, of the 22 ministers 11 are women. The prime- and finance ministers are both men but the law of justice is a woman.

The parliament is fairly equal. Almost 45% of the parliament consists of women. The committees under the assembly shows the same pattern as the committees under the departments, e.g. in the social area 7 out of 15 are women while only 5 are women within the financial area.

5. Legislation and equal opportunities in Britain

The equal pay act from 1970 covers pay and other contractual terms and conditions of employment so that both men and women receive the same pay. There are three reasons on which a industrial tribunal can award equal pay:

- A woman who does the same or broadly the same job as a man.
- A woman's job has been rated the same as a man's job by a job evaluation study.
- A woman's work is of equal value in terms of skill decision making to that of a mans job.

The sex discrimination act from 1975 covers all polices and procedures for the recruitment, interviewing, hiring, promotion etc. both to women and men a like. It is unlawful for a person, in relation to employment by him at an establishment in Britain, to discriminate women.

6. Equality between the sexes in German law

In the federal constitution of Germany (Grundgesetz) there are different articles concerning equality between the sexes: Art. 3 par. 2 and 3 defends gender discrimination, fixes the same rights for women and men and prescribes the obligation for all public authorities to realise equality also in reality. Art. 33 par. 2 repeat the principles for the public sector employment's. Those principles are to be found also in the different states (Länder).

In German civil and labour law there are several articles concerning equal treatment in the labour world. e.g. in the frame of law-rules concerning the public sector, there are in several states quota-rules for the employment²⁸, as for the federal public service, there is an obligation for the public employer to promote women for higher position²⁹, defence in the public sector of disadvantages in the professional career because of part-time-jobs³⁰, the obligation for the enterprise's committee (Betriebsrat) to realise gender equality in reality³¹, the anti-discrimination-article in the German civil law (§ 611a Bürgerliches Gesetzbuch), which gives the right of damage to an applicant and employee or worker against an employer because of discrimination reasons³²

7. Control institutions in Great Britain, Sweden and Germany

Of course, the three European countries have the judicial control of the different national courts to the benefit of discriminated persons. There are the administration courts and labour courts in Sweden and Germany, the tribunals and the high court in Great Britain. Finally you have the constitutional law control of the house of Lords in Great Britain or of the Federal constitutional court (Bundesverfassungsgericht) in Germany. In Sweden the council of legislation-work by a control a priori.

Thereby there are different political controls by parliaments, by equality commissions (Ombudsman) and - last but not least - an independent press.

²⁸ § 8 I Landesgleichstellungsgesetz - GVBl. 1991, S. 8 ff.

²⁹ § 7 FrauenförderG - BGBl. I 1994, S. 1406 ff.

³⁰ § 49 Beamtenrechtsrahmengesetz - BGBl. I 1994, S. 1410

³¹ § 80 I Betriebsverfassungsg - BGBl. I 1994, S. 1411

³² § 611a BGB, BGBl. I 1998, S. 1694

8. The European Court's decision on the position of women

- Rome Treaty - Nowadays the Treaty of the European Union

The Union member are according to the Rome Treaty article 5, obligated to observe that their own national regulation agree with the directive before the implementation times is over. After the set up time limit, any individual can report the State, in case it fail to implement the directive by the end of the period, or if the implementation is incorrect.

Article 119 in the Rome Treaty stated that all member states should under the first stage ensure and maintain the principle of equal pay for men and women for equivalent labour. Equal pay without discrimination on the basis of sex implies:

- a) piece rate for equal work should be determined according to the same calculation grounds,
- b) time pay for equal type of work should be the same.

The directives to promote the women's position in the European Union have been taken with the support from the articles 119, 100 and 118a and/or 235 of the Rome Treaty³³

- * The court has many times been forced to interpret article 119 in the EC-Treaty, and has therefore actively been involved in developing the equality between the sexes within the EU. With the **Dafrenne**³⁴ **II-case** the court pinpointed, that article 119 is directly applicable, and therefore creates right for citizens that the national courts must uphold. Equal treatment therefore applies even to corporations and not only the authorities.
- * The question of indirect discrimination was highlighted in the **Von Hartz-case**³⁵. The court explained that a system that excluded part-time-work was illegal, unless the employer could prove it did not have any connection with discrimination because of gender. A similar case³⁶ was about benefits only to full-time

³³ According to it there exist the Treaty of Amsterdam, while the art. 117 - 120 shall be replaced by some changes; here the art. 119 is most important.

³⁴ Case 43/75 Dafrenne versus Sabena

³⁵ Case 170/84 Bilka versus Wever Von Hartz

³⁶ Case C-33/89 Kowalska

employees received because of union membership. The court saw this as discrimination since women, to a lesser extent, works full-time.

- * In the **Barber-case**³⁷ the court confirmed that the prohibition to discriminate with wages also applies to pensions and pension-funds, that was seen as a part of the wages of the employee. Pension-funds therefore had to stop discriminate men and women by payments and pension-ages.
- * The **Dekker-case**³⁸ was about a woman that wasn't appointed because her employer wouldn't be able to recoup the maternity pay from the insurer, the court found this behaviour not in line with article 119. In another case³⁹ the court ruled that the employer could dismiss an employee that had been home sick several times due to giving birth two years ago. This, the court argued, was due to the fact that men and women were equally exposed to illness. The explanation to the differences between the rulings here can be found in the definition of discrimination⁴⁰. "The action complained of must be grounded on the sex of the claimant(the causation element) and it must also constitute adverse treatment, in the sense that it is more detrimental than the treatment which would be received by a member of the opposite sex." The court has also declared that national law that prohibits night-work for women is not legal, since men and women are supposed to be equally exposed to risks during night-work⁴¹.
- * Another case concerning indirect discrimination was **Rinner-Kuhn v. FWW Special-Gebaudereinigung GmbH**⁴². The employer didn't give Ms Rinner-Kuhn sick pay since she was not working the required hours (10h/week or 45h/month), and since a bigger percentage of women than men didn't reach the demanded hours the Court of Justice concluded that it was contrary to the aim of article 119. However, you may be allowed to discriminate indirectly like this if you can prove that you have objective factors that are not grounded on sex, and the Court of Justice defined that further by saying that member states could get their measures approved if they could „show that the means chosen meet a necessary aim of its social policy and that they are suitable and requisite for attaining that aim“. The Court seems to think that relieving of poverty is a more acceptable goal than

³⁷ Case C-262/88 Barber

³⁸ Case 177/88 Dekker

³⁹ Case 179/88 Aldi

⁴⁰ Evelyn Ellis's definition in Common Market Law Review 1994, page 52

⁴¹ Case C-345/89 Stoeckel

⁴² Case 171/88

profits of a commercial organisation, or you can at least say that so far states with budget restrictions has had an easier time than the commercial organisations to get their regulations accepted.

- * An additional case was the **Kalanke Case**⁴³ in 1995 about affirmative action. This case concerns a law in the federal state Bremen in Germany which forced the authorities to employ a woman instead of a man if both of them were equal merited for the job and women were underrepresented. The European Court of Justice interpreted that law to be discriminating men due to gender. So therefore the employment procedure was declared illegal, and this, as always with the decisions of the Court of Justice, became a precedent. This case went completely against the intentions and the spirit of the EC-treaty.
- * The case with the teacher **Hellmut Marschall**⁴⁴ two years later was in contradiction to the Kalanke case. Marschall had complained to the court when a woman was employed for the job he applied for. In this special level of the job women were underrepresented, but even though he claimed he should have got the job. The judgement from the European Court of Justice implies that affirmative actions is allowed if the applicants have equal merits. If there is a male more qualified applicants he should be employed even if women are fewer than men in this occupation. The Marschall case has replaced the precedent created in the Kalanke case and is now the precedent when it comes to this kind of positive action. This case has shown that the Court is also influenced by the politics for example the Amsterdam treaty, where it is pronounced that the European countries should take steps to promote the underrepresented sex.

⁴³ Case 450/93

⁴⁴ Case 490/95

9. The Council Directives on the position of women

- The **Council Directive 75/117/EEC of February 1975** on the approximation of the laws of the Member States relating to the application **of the principle of equal pay for men and women**. The directive point out the importance of adopting to the principle of equality, so that all employees in the Union can be protected in these matters. The goal of the directive is to eliminate all discrimination on grounds of sex with regards to all aspects and conditions of remuneration, for the same work, or for work which equal value is attributed. When fixing the pay, the system must be the same for both men and women and shaped in a way to exclude any discrimination on the basis of sex.
- The **Council Directive 76/207/EEC on 9th. February 1976** on the implementation **of the principle of equal treatment for men and women as regards access to employment, vocational training, promotion and working conditions**. Under article 235 in the Treaty the European Economic Community has established a social action program. A part in the program is the actions aimed to achieve equality between men and women as regards access to employment and vocational training and promotion and as regards working conditions, including pay. The directive allows no discrimination whatsoever on grounds of sex either directly or indirectly by reference in particular to marital or family status, the principal of equal treatment should be followed. The purpose of the directive is also to protect the pregnant women and the maternity. Moreover the directive shall promote equal opportunities for men and women, mainly by eliminating inequalities. Furthermore through the directive the states should examine the selection criteria for access to all jobs and posts, and remove obstacles. Laws and regulations, which cause inequality should be abolished. Each state shall work towards access for both men and women to all types and to all levels, of vocational guidance, vocational training, advanced vocational training and retraining. If collective agreements, individual contracts of employment, internal rules or in rules governing the independence occupations and professions, contain any provision contrary any kinds of discrimination on the grounds of sex, they should adjust to the principle or declared, null and void. This

directive should within 30 months be implemented in the national legislation and thereafter should the Commission be thereof.

- The Council Directive 79/7/EEC of 19th. December 1979 on the progressive implementation of the principle of equal treatment for men and women in matters of social security. The directive should be implemented to provide protection against the risk of sickness, invalidity, old age, accidents at work, occupational diseases and unemployment, and in social assistance in so far as it is intended to supplement or replace the statutory schemes. The directive should apply to the working population including self-employed persons and workers. Within the time limit of six years should the state do necessary adjustments in laws, regulations and administrative provisions to comply this directive and immediately thereafter inform the Commission thereof.
- The Council Directive 86/378/EEC of 24th. July 1986 on the implementation of the principle of equal treatment for men and women in occupational social security schemes. In this directive occupational social security schemes mean schemes, which are not governed by directive 79/7/EEC, which purpose is to provide workers, whether employees or self-employed, in an undertaking or group of undertakings, area of economic activity or occupational sector or group of such sectors with benefits intended to supplement the benefits provided by statutory social security schemes or to replace them, whether membership of such schemes is compulsory or optional. This directive should apply to both occupational schemes, which provide protection against the following risks: sickness, invalidity, old age, including early retirement, industrial accidents and occupational diseases, unemployment and to occupational schemes which provide for other social benefits, in cash or in particular survivors benefits and family allowance, if such benefits are accorded to employed persons and thus constitute a consideration paid by the employer to the worker by reason of the employment of the latter. Rules, which are contrary to the directive should amended or declared null and void. Within three years after notification member-states shall bring into force such laws, regulations and administrative provisions, which are necessary in order to comply with this directive.

- The **Council Directive 86/613/EEC of 11th. December 1986** on the application **of the principle of equal treatment between men and women engaged in an activity, including agricultural, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood.** The directive applies to self-employed persons, in an activity, which their spouses also are engaged. The aim is to help these people, who are self-employed and their spouses, who are not employed, but working in the same way. The goal is to enable the spouses in the described position, who are not protected by a self-employed workers social security scheme, and to ensure them to join an other social security scheme. This directive shall be implemented by the member state before 30th. of June 1989.
- The **Council Directive 92/85/EEC of the 19th. October 1992** on the introduction **of measures to encourage improvements in the safety and health at work of pregnant workers and workers who recently have given birth or are breastfeeding.** This group of workers can be considered as a particular sensitive risk group. The aim of this directive is to protect this group from dangers which specifically affect them. Provisions should be taken to regard the safety and health for pregnant workers, workers who have recently given birth or who are breastfeeding. These provisions may be considered to be inalienable with those directives mentioned earlier being secondary to this primary objective. Moreover these women have the right to at least 14 week maternity leave of and should not have to work at night. This directive shall be implemented by the member state within two years⁴⁵.

⁴⁵ The directives have been acquired from CELEX, Internet

10. The Swedish implementation of the Council Directives

After having highlighted the directives and their impact we are now moving further to the Swedish way to adopt and adjust to the directives. The relevant laws and regulations in the case of Sweden are: the law of equality, the regulation with instructions for the equality ombudsman, the law of amendment in the law of equality, the labour environment law, the labour environment regulation, the law of public insurance, the law of labour accident insurance and the law of employment insurance.

Most cases of the Council directives on the position of women have their correspondence rules in the present Swedish legal system, although there are some corrections and additions. Each law and amendment is registered in the Swedish statute book.

- * The directive 75/117/EEC relating to the equal pay principle has its correspondence in the law of equality and the decree with instructions for the equality ombudsman.
- * Directive 76/207/EEC about the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions, has its equivalence in the law of equality, the law of amendments in the law of equality and in the decree with instructions for the equality ombudsman.
- * The directive 79/7/EEC of the principle of equal treatment for men and women in matters of social security, has the demanded provisions in the following laws; the law of public insurance, the law of labour accident insurance and the law of unemployment insurance.
- * The directive 86/378/EEC of the principle of equal treatment for men and women in occupational social security schemes, was already a part of the law of equality, due to no amendments were needed.
- * The directive 86/613/EEC of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood, are when Sweden entered to the Union, already including in the law of equality.

* The directive 92/85/EEC of protection of pregnant women and women who recently have given birth and women who are breastfeeding, resulted in an amendments in the law of labour environment and the decree of labour environment⁴⁶.

11. Implementation of equal opportunity policies in Great Britain

In this section we are going to give you examples of these policies and how they are working within Britain.

- Women in the British civil service 1993-1995 -

Within the civil service women hold 51% of all non-industrial jobs, 47% of all executive officer level jobs and 29% of first management jobs. Although we have progress within this field it is slow and the overall picture is that the majority of women are still concentrated in the lower grades and hence lower pay levels. There are opportunities and action plans for women within the civil service to try and increase the number of women working in the higher grades.

- Employment and labour market -

In the UK 70% of the population of working age is in employment compared with an EU average of 60%. Although employment levels are still lower than 20 years ago, but the employment for women has risen steadily and now stands at 68%, where as the rate for men has fallen. Government economic policy has led to the restructuring of the labour market what has given rise to an increase of the participation of women in the labour market. This is because of the increase of the service sector and the decrease in the industrial sector. It has created a more flexible working patterns with more part time work being done especially by women.

⁴⁶ The implementation measures have been acquired from SCAD plus, Internet

- Women and training -

As we have noted above, in recent years there has been an increase in the levels of participation by women in the labour force, accompanying this change has been the need to undertake an ongoing process of retraining so as to enable women to acquire new skills and thereby potentially the skills have required to participate in the upper levels of employment (thereby allowing them to acquire those skills and experience to overcome the perils of the „Glass Ceilings“, which have in previous times have acted as a bar to upper levels). Despite of the optimism with which we greet these „advances“ problems still remain in terms of a specific group of women whose access to training and thereby better jobs are restricted, these include especially women with children, women returnees, e.g. those returning into the labour market, those only able to work part time, women with no or low level qualifications, women at the base of the occupational hierarchy, and women in low paid jobs. The lack of access to training is associated with a variety of barriers, which include: structural, organisational, institutional, and attitudinal barriers; women’s own attitudes; and the distribution of labour and finances within the home.

The Labour Force Survey of 1994⁴⁷ showed women to be equally placed with men in terms of access to training, however it was found that those respondents fulfilling the exclusion criteria mentioned above had limited access to training. The reason for the comparable position of a proportion of the women’s access to training was largely due to the fact that many women were concentrated in industries and occupations with better training opportunities, as opposed to women receiving better training.

The surveys findings indicated that those women who were employed within the public service sector were more likely to be trained towards a better qualification than those in other sector, as were professionals, associate professionals and technicians, whereas clerical workers and manual workers were least likely. A further disadvantage was being married/ cohabiting, having a child under the age of five.

⁴⁷ Cited in „Women in Training“ Callende and Metcalf, The policy Institute, London , 1998

In order to overcome many of the problems highlighted above the possibility of providing a more proactive role for the „Training and Enterprise Councils“, which have previously only had limited powers to enforce equal opportunity decisions.

- In pursuit of equality -

Equality in Britain has many problems, e.g. the complexity of the law: The sex discrimination Act 1975 and Order 1976 and the Equal pay Act 1970 are over twenty years old. There are problems arising because of legal complexity, which is now being interpreted in the light of European Community law, especially within indirect discrimination and victimisation which are also limited. Also the procedures for claiming equal pay for equal work are very difficult. The county court complexities and expenses also deter individuals from bringing claims, there is no mechanism to follow up implications of individual cases and no redress on the collective dimensions, which would avoid costly duplication.

In the UK more than five million people are working part time and 38% of the labour force is estimated to work in non standard work patterns, seasonal, casual, homeworking, which is mainly done by women. These employees do not have equal rights, especially employment protection, access to occupational pensions, sick pay and maternity rights.

So what can be done to bring different employment patterns more equal.

The national agenda for action says: „Replacement of the sex discrimination Act 1975 and Equal pay Act 1970 with a single comprehensive statutes taking into account requirements of European law and precedent. Collective remedies for discriminatory practices. The expansion of the scope of indirect discrimination and victimisation, measures to tackle low pay and have a minimum wage.“

The government would have the responsibility to review and simplify and amend the existing legislation in order to ensure equality between women and men.

12. The influence of the EU directives on German law and judgements

- Equal payment⁴⁸ -

The *Bundesbesoldungsgesetz* and the *Bundesangestelltentarifvertrag* regulate the principle „ Equal Payment for men and women“. So in the public sector are no problems with equal payment apart from the fact, that mostly men are in higher positions.

- Equal job treatment⁴⁹ -

The German civil law was changed (especially the §611 a):

1. Equal treatment of men and women at the work place.
2. Damages because of discrimination during the application process: The discriminated applicant can claim all costs for his/ her application (material) and if she/ he was violated in her/ his free development of his/ her personality she/ he can claim one to three monthly wages (immaterial).⁵⁰

Because of the § 8 Landesgleichstellungsgesetz Berlin⁵¹ a women's quota was introduced and it is possible now to use the quota in the public sector. In the male dominated fields women are favoured for a new position if they have the same abilities and skills as the male applicants up to the quota of 50 %. The Bundesarbeitsgericht decided that quota does not violate the right of equal treatment (article 3 GG)⁵² The European court of justice said in his decision of 17th of October 1995 that the quota violates the right of equal treatment⁵³. In 1997 in comparison to the decision of 1995 the court made the judgement that the quota is legal when it is guaranteed that every single applicant is treated equally and objectively.⁵⁴

With regard to this principle the article 3 of the basic law (Grundgesetz) has been changed.

So the state has to promote equal rights for men and women.

⁴⁸ Directive 75 / 117 / EEC

⁴⁹ Directive 76 / 207 / EEC

⁵⁰ European court of justice (ECJ); 10th of April 1984; Rs 14/ 83 case: von Colson and Kamann; Bundesarbeitsgericht; 14th of March 1989; § 611a BGB, BGBl. I 1998, S. 1694

⁵¹ § 8 Landesgleichstellungsgesetz Berlin, GVBl. I 1991, S. 8 ff.

⁵² BAG 22.6.1993 1/ ARZ 590/ 92

⁵³ Case Kalanke; RsC 450

Part-time-jobs are offered for men and women, e.g. for child care, care for sick and old relatives, time for further education. Most part-time-jobs are taken by women : EU average : 78 % , Germany : 89 %. It is used of a small number of men because part-time-jobs are usually unattractive , very few chances to be promoted. They are less well paid and take higher risk of unemployment and it is hard to switch to full-time-jobs once the children are grown up. Therefore it is in Germany a defence of disadvantages in the professional career of an official of part-time-work⁵⁵.

- Equal treatment in social security matters⁵⁶

The retirement age has to be the same for men and women⁵⁷. Three years of child care for each child do not have any effects on the amount of the wage and the future pension⁵⁸. For receiving the full amount of pension it is now necessary to work 40 years. But for working women with children it is hardly possible to get the full pension (esp. when they have a part-time-job)⁵⁹.

- Benefits for pregnant women⁶⁰

It is a discrimination if the employer ask a woman whether she is pregnant during the application process apart from the fact that it would be helpful for mother and child, if a woman is lying she cannot be fired, if a woman temporary does the work for a pregnant woman and becomes pregnant too she cannot be fired⁶¹

The Erziehungsgeldgesetz (law-act of paid family education) garantees maternity or paternity leave for three years. Two years will be paid by public subventions until the maximum of 600,00 DM belonging to the income of the family⁶².

From the age of three years every child in Germany can claim a place in the Kindergarten⁶³

⁵⁴ 11th November 1997; RsC 409/ 95; Marschall

⁵⁵ § 49 Beamtenrechtsrahmengesetz, BGBl. I 1994, S. 1410

⁵⁶ 9/ 7/ EEC and 86/ 378/ EEC

⁵⁷ ECJ 26th February 1986; Rs 152/ 84

⁵⁸ § 6 I, V Beamtenversorgungsgesetz, BGBl. I 1997, S. 334

⁵⁹ compare § 6 I, IV Beamtenversorgungsgesetz, BGBl. I 1997, S. 334

⁶⁰ 92/ 85/ EEC

⁶¹ ECJ 8th of November; RsC 177/88 ; Dekker; ECJ 14th of July 1990; RsC 32/93 ; Webb; ECJ 5th of May 1994;

⁶² BGBl. I 1994, S. 180 ff. und BGBl. I 1997, S. 594 ff. (Art. 74)

⁶³ § 24 Sozialgesetzbuch VIII (Kinder- und Jugendhilfegesetz), BGBl. I 1990, S. 1163; BGBl. I 1992, S. 1398); also Kindertagesbetreuungsgesetz Berlin vom 19.10.1995, GVBl. S. 681

In Berlin there is a special law about reaching the equality of sexes in the public sector. The law is called „Landesgleichstellungsgesetz - LGG“ was introduced by the Berlin government in December 1990⁶⁴. The law says that men and women have to be equal, any discrimination is forbidden. There is a special women’s development plan, that means that the public administration has to plan how they want to promote women during the next years to get more and better jobs for females. Every job offer has to be neutral or at least has to have both sexes mentioned. It is possible for firms to get preferential treatment from the public sector if they promote women. In every district there is a Frauenvertreterin, a women, who is responsible for every women in the borough council. For the whole district the Gleichstellungsbeauftragte is responsible for all women of the borough. The Landesgleichstellungsgesetz mentions the sexual harassment as an act being bad. The superior has to look for every harassment and has to protect the employees from any kind of sexual harassment by women or men.

13. Amendments in the law of equality caused by the Swedish membership in EU

The Swedish Membership in the European Union has resulted in amendments in the law of equality on two points:

- article 18, equal pay for equal work,
- articles 10 and 11, an employer with more than 10 employees shall have an equality plan,

An essential difference can be seen in the legal usage between the European Court of Justice and the Swedish Labour Court. In the Swedish Labour Court it is easier for an employer to prove that no discrimination has occurred and that two jobs are not to be seen as equal. On the contrary, the ECJ more often interprets on advantages of the employee. According to Reidunn Lurén⁶⁵, we have reasons to believe that the ECJ legal usage will affect the Swedish Labour Court in the future.⁶⁶

⁶⁴ GVBl. 1991, S. 98 ff.

⁶⁵Laurén, R.,” Lönediskriminering av kvinnor - ett svårlöst problem” i Studier i arbetsrätt, 1993, s.211.

⁶⁶Nyström Birgitta, EU och arbetsrätten

- The laws concerning sexual harassment in Sweden -

Sweden has a law that regulates the equality between women and men at work, it is called "Jämställdhetslagen 1991:433", the law of equality.

According to article 6 in this law of equality the employer is obligated to make sure that no employee is sexually harassed at work. This rule means that the employer has to take active action to prevent and work against the occurrence of sexual harassment.

This obligation to take active action means that the employer must have a sexual harassment policy and a plan of action of how to deal with eventual problems in this area.

If the employer continually neglects the obligation to pass a policy the "ämställdhetsombudsman"⁶⁷, the equality ombudsman can ask a certain equality between the sexes panel of lay assessors to fine the employer.

According to the 22nd article an employer may not harass an employee in any way, because the employee has earlier declared sexual harassment's unwelcome. This article protects the employee against revenge, for example if the employer decides to decrease the wages of the employee because of his "disappointment". This rule includes a person representing the employer such as a supervisor.

A few numbers (from 1987) to highlight the depth of the problem in Sweden.

17 % of the working women has been sexually harassed at work, while the harassment's mainly consisted of sexual hints and deliberate touching.

It also needs mentioning that the quota system is voluntary well as positive action is mandatory for the employer, although the Government encourages such action.

Quotation is when several people meet the criteria set by the future employer, and one does not choose the most merited but someone meeting the criteria from the under-represented sex.

Positive action is when two persons are equally merited and it is possible to choose one from the under-represented sex.

⁶⁷ Jämställdhetsombudsman is a bureaucratic watchdog that supervises issues concerning equality between the sexes at work.

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Workshop 3:

Labour law, motherhood, and professional career. History and current position in Sweden, England and Germany

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◆ Introduction

The importance of equality of women in Europe has improved a lot during the last years.

It is not just a topic which is concerning the different national countries. To find solutions for this difficult problem and to improve the situation of women it is also necessary to have a look at the other countries.

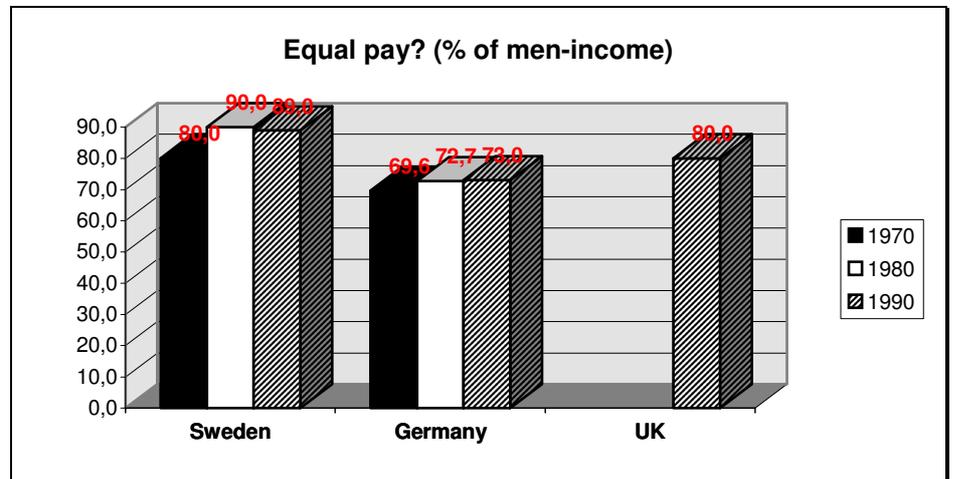
During the last days we have been comparing the situation of women in Sweden, the UK and Germany concerning labour law, motherhood, childcare and the professional career.

We had a closer look on what the national countries and the EU did to improve the situation of women.

1. Labour law, motherhood, and professional career. History and current position in Sweden, England and Germany. The impact of EU's women policy.

First of all we looked at the laws concerning equality and labour in each country. The EU introduced the Treaty of Rome in 1957, an agreement that encourage *equal pay for equal work*.

This has been implemented in all our three countries. Then we went on to discuss the number of women



employed in each country. The percentage of women working in Sweden in 1993 was 81 %, in West-Germany in 1990 was 54,5 % and in the UK in 1994 was 71 %. This shows that all three countries are different, so we went on to investigate why.

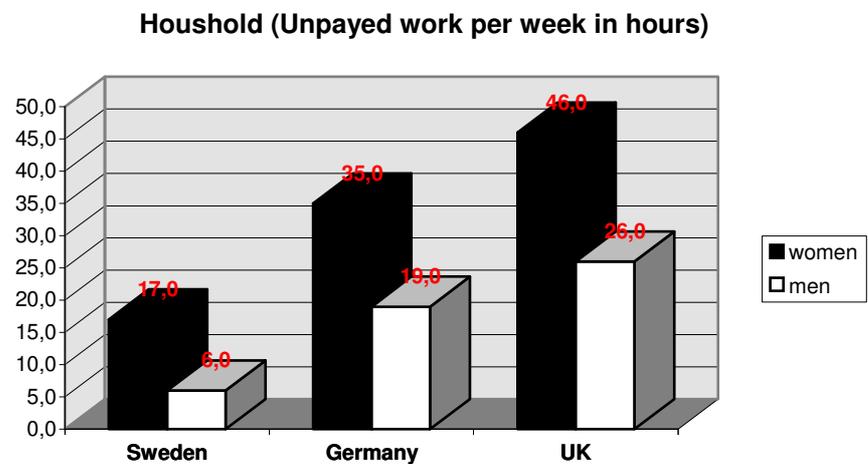
We particularly examined childcare and parental leave and saw vast differences. Sweden, for example, has offered full time guaranteed childcare places for every child up to school age since 1995. Germany, however, guarantees childcare for 3 to 6 years old children and only for 4 hours a day. The UK has the worst childcare system only offering care for all 4 year olds. Similarly the UK has poor parental leave. As according to EU directives of 1992, it provides 14 weeks initial leave but a woman taxing further time off is not entitled to full pay. In Germany either parent can take further leave but is restricted to an allowance from the state.

Sweden on the other hand provides only 75 % of the normal wage, but this is for up to 15 months, again either parent can be given leave.

It has been observed that when doing the same job, women earn substantially less money than men. In the UK, this is as much as 20 % less and in Sweden 9 %. This is presumed to be due to women taking more time off than men; either being sick herself or attending to her children when they are ill or have problems. There is also the amount of time a woman needs while she is pregnant.

This leads to the fact that quite often women have to take part-time-work, rather than full time work. Thus missing out on promotion opportunities and management positions, which ultimately means less pay and benefits.

Equal opportunities are also not existing in the home, with men significantly doing less work in the home and not spending as much time caring for the children.



2. The EU - a driving force for women's equality? Progress or Stagnation? England, Sweden and Germany compared

Although the EU directive, created in 1975, states that there should be equal pay for equal work, we can see from the figures that it is not taking place yet, even though the situation is being slowly improved. Nevertheless, the EU helps in questions, which are discussed at the same time in all the different European member-states.

The EU also support women pressure groups to make each country's government aware of the problems.

An extensive practise has been developed by the European Court of Justice when it comes to equal treatment of women and men. This is even more as well as referring to labour and social insurance's. The European Court of Justice is the main force within the EU for interpreting the EU's policy of equality. It has been more than a few times that the court has made the policy wider. In the some words it can be said that especially this court of Justice has had times the court's decisions have been in favour women. For many governments the court's decision is heavier than the Council of Ministers decisions.

The prohibition of wage-discrimination ("the principle on equal wage for equal or equivalent work") was sharpened with the Treaty of Amsterdam. In the treaty it's also

stated expressly that the EU shall make measures to increase the equality on the labour market. An instrument to reach this goal can be positive discrimination, which through the treaty is allowed to be used.

3. Summary

We think that the different situations in the countries are a result of different tradition in politics. Sweden has had a long social democratic rule, so the welfare state has been well developed and has a great influence on family life. Both Germany and the UK have a conservative party created a more religious and moralistic way of life. Even though subventions and political efforts in Germany are extensive, formalism is characteristic of the politics, and of the public opinion. Politics moves away from the private sphere in the United Kingdom, making the individual responsible for itself.

To summarise this, one can say that the different political point of view have a great influence on family life's and the legislation concerning the equality of women.

We suggest to improve family life, and thus the position of women, that resources be set aside for childcare so that there is greater freedom for choice of work or training, that legislation on parental leave in Germany and the UK be improved, so that financial security in the home is assured and also the security for parent returning back to work.

Uli Bethke

Symposium: Final event, expert discussion, and summary of the International Workshop at the FHVR Berlin

Participants:

Mrs. Christine Bücken-Gärtner, Diplom-Psychologin, Diplom-Verwaltungswirtin

Mrs. Marie Tuula, Lecturer at the University of Gothenburg

Miss Annette Wylie, Student at the University of Central Lancashire, Preston

Mr. Frederik Nymann, Student at the University of Gothenburg

Moderation:

Mrs. Dr. Margaret Lünenborg, Journalist, Publicist at the SFB broadcasting station

Audience:

Participants of the International Workshop, Students from the University of Central Lancashire, Preston, from the University of Gothenburg, and the Fachhochschule für Verwaltung und Rechtspflege Berlin

Lecturers and staff of the FHVR Berlin

Formal proceedings:

Mrs. Bücken-Gärtner started the symposium by giving a brief statement on her recent research results on the position of women in the Berlin public administration. She came to the conclusion that the under-representation of women in executive positions of the Berlin administration has several reasons. One point that often is neglected by researchers is the unwillingness of a lot of women to pursue a career and rise to executive positions.

Mr. Nymann outlined the position of women in the Swedish public administration. He gave a lecture on the myth that equality for women in Sweden was close to being realised.

Finally, Miss Wylie reported on equal opportunities for women and men in the British public administration. She stated that the movement for equality in Great Britain still had some way to go, as, e.g. less than 25% of MPs were women.

Focus of the discussion

The discussion mainly focused on three points:

The under-representation of women in executive positions in all three countries, the effects of maternity on women's career opportunities, and the prospect for women on the labour market dominated by the neo-liberal paradigm.

The audience and the participants of the symposium agreed that there are both structural and individual reasons for an under-representation of women in executive positions in the public administration. On the one hand, men still are reluctant to transfer power to their female counterparts. On the other, however, women are also unwilling to pursue a career and aim to rise to executive positions.

Another point that was focused on, was the topic of motherhood. Here the opinions of the participants diverged. From an economic point of view, some argued, that men are naturally advantaged over women. Small businesses simply could not afford that their employees were absent for reasons of motherhood. Others stated that women had not the sole responsibility for their children. They argued that motherhood would not be a disadvantage for women on the labour market, if men gave up their unwillingness to get more involved in the upbringing of their children.

Finally, the debate focused on possible prospects for women in the public administration. Most of the participants viewed the future for women rather pessimistic. In the light of a labour market dominated by the neo-liberal paradigm, deregulation, and flexibilisation of the labour relations, they could not see an improvement of the situation for women in the administration. On the contrary, the introduction of the concept of lean administration will lead to a disintegration of positions of medium rank in the administration. As women are over-represented in that sphere this also will lead there to a loss of employment opportunities for women.