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Publisher: Routledge

Informa Ltd Registered in England and Wales Registered Number: 1072954
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UK



German Politics

Publication details, including instructions for authors and subscription information:

<http://www.tandfonline.com/loi/fgpr20>

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Published online: 22 Sep 2011.

To cite this article: Angelika Von Wahl (2011) A 'women's revolution from above'? Female leadership, intersectionality, and public policy under the Merkel government, *German Politics*, 20:3, 392-409, DOI: [10.1080/09644008.2011.606569](https://doi.org/10.1080/09644008.2011.606569)

To link to this article: <http://dx.doi.org/10.1080/09644008.2011.606569>

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A 'women's revolution from above'? Female leadership, intersectionality, and public policy under the Merkel government

ANGELIKA VON WAHL

Internationally, the number of female leaders has increased in recent years. While the rise of women to political prominence has been explored over the last two decades, we know much less about their actual decision-making. The article investigates what role Merkel's gender has played for governance during her first term in office. Has female leadership made a difference for the substantive representation of women's interests and, if so, how? This article compares and contrasts two explicitly gender-related policy areas, reconciliation and anti-discrimination policy, in a most-similar-case design. While major reforms were passed in the realm of family policy, anti-discrimination policy was considered a marginal political concern. To explain the different outcomes this analysis focuses on the identities and interests of relevant political players in their institutional context. In order to better understand female leadership and governance we use the lens of intersectionality, which has a promising theoretical and empirical potential.

CHANCELLOR MERKEL: DOES GENDER MATTER FOR POLICY?

The literature on women and political representation distinguishes between formal representation (women have the legal right to participate in politics on an equal basis with men), descriptive representation (there must be descriptive similarity between representatives and constituents), and substantive representation (women's interests must be advocated for in the political arena).¹ This collection of essays falls into the latter category because it attempts to investigate whether Merkel's gender has had an influence on the way she has run her government and on the policy reforms that the Chancellor has either pursued or avoided. In the broadest sense, the greater task at hand is to *describe how* Merkel has governed and *investigate what role* Merkel's gender has played, if any, for certain policy areas during her first term in office. And, in keeping within this context, this article begins with a discussion of both the analytical and actual challenges of 'running as a woman' and governing for policy-making.

First, women have only entered politics in larger numbers in the last three decades. As a consequence, most research has focused on women's *access* to politics, or their careers in political parties and public office. We know much less about the actual political choices of female leaders and the political impact they have on their societies. In response to the question of whether women make a difference in politics, Paxton and Hughes state that 'many women feel a commitment to furthering women's interests,

and many will act to do so'.² According to Karam and Lovenduski, women's concerns can be supported in a variety of ways from 'raising the living standards of women and girls, building networks with women's organizations to determine women's needs, collecting and disseminating data with which to develop public policies to address these needs, and mainstreaming gender by considering the gendered aspect of public policy in a range of areas'.³ However, Paxton and Hughes assert that, 'we must caution that right now, when asking if and how women influence politics and policy-making, we have few answers. What we do not yet know about women's political impact is far greater than what we know'.⁴ And the interpretation of women's decision-making is complex. For example, female leaders may perceive that acting on behalf of women will make them seem 'weak' or only supportive of 'special interests', and will therefore shy away from being identified too closely with women's issues.

Second, we do not always know when women are acting specifically on behalf of women or on behalf of their general constituency (half of which are always women), special groups, or their party. Other contextual influences, such as external political crises or specific issues, can also be important in their decision-making process.

Third, women (as well as men) belong to a variety of social groupings (ethnic, religious, regional, socio-economic class, etc.) and may act as members of those groups rather than as representatives of their gender.⁵ Indeed it is likely, according to the *intersectional* approach, that individuals bring multiple experiences to bear on their behaviour, which results in the construction of new identities and interests.⁶ I want to argue that it is in this intersectional vein that the leadership of Angela Merkel can be best understood. In the case of female leadership, we should expect that women bring their gender to the table – just as men do – but that we cannot a priori identify what a 'female' perspective will be because that perspective intersects with other social identities held simultaneously. What we can do, however, is assemble the known biographical factors and previous decisions of a female leader, which give us an idea of a number of relevant social identities and interests, even if these experiences do not add up neatly or combine in simple ways.

The three considerations regarding the general complexity of the relationship between gender and decision-making that I have noted above should caution us against making any sweeping arguments about the political impact of female leaders. Instead, researchers need to accumulate descriptive data through well-constructed research designs, data which can lead to more reliable analysis and theorising of the extent and limitations of the gendered nature of leadership. In this vein, and in the context of Merkel's leadership and the support she gives to certain policies, this article presents a study designed to contrast and compare the developments in two policy domains: family and anti-discrimination policies. These different policy domains have been under the same leadership since 2005 and each falls under the responsibility of the same ministry. This most-similar-case comparison is particularly intriguing because we can hold a variety of factors constant, namely: 1) the same (female) leadership in the Chancellery (Angela Merkel); 2) the same (female) leadership of the ministry (Ursula von der Leyen, in the Ministry of Family Affairs, Senior Citizens, Women and Youth); and 3) the same party affiliation for both leaders (CDU). Because of identical leadership and party affiliation, we would at a minimum expect a similar *direction* of decision-making and possibly also a similar *extent* of reform in

both cases. According to what we know from the literature about women's policy-making, I propose three hypotheses:

H1: *Since female leaders try to further women's interests to some degree, Merkel will probably try to improve reconciliation and anti-discrimination policy.*

H2: *Since female leaders do not want to appear to act exclusively on behalf of women, Merkel will be cautious in appearing 'too supportive'.*

H3: *Since other considerations, such as party politics, other identities, or crises in specific issue areas, can become more important for female leaders, we should not expect that Merkel would risk alienating core constituents by pursuing these policies.*

So when asking 'Does gender matter?' my suggestion is that while probably gender matters sometimes, it would be most useful to investigate *when* other (non-gender-related) interests trump the more gender-sensitive concerns. When do other identities and life experiences of female leaders become relevant? And when do external factors, such as ideological standpoints of the conservative or Christian Democratic parties, expected voter support/disapproval, powerful veto players, or other constituent interests, become stronger than the potential inclination of female leaders to improve the lives of women? And, considering the structure of the conservative welfare state and the male breadwinner model with its barriers against female commodification, de-stratification, and de-familisation, *which* group or groups of women are the focus of the current reforms and what social groups or classes are not?

THE MERKEL GOVERNMENT

Merkel's rise to power, particularly her ascent to the Chancellery, has been analysed from different angles.⁷ My focus in this particular article is on the *style, content, and impact* of her *governing*. In terms of personal style, Chancellor Angela Merkel is seen as a cautious and pragmatic politician.⁸ Those who wish for more assertive leadership insist she is a mere 'mediator', not a Chancellor in the traditional sense. Also, she has not fitted into the mould or followed the path of her predecessor, Chancellor Schröder, who was known for his 'basta-politics' and his willingness to publicly put his foot down. Indeed, Angela Merkel is the first female and former East German citizen to be Chancellor, bringing with her experiences and perspectives that have thus far never played a role in the highest office of the FRG but which are now affecting decision-making and leadership style.

According to an intersectional approach, we can assume that Merkel's personal experience and political outlook is shaped by the power dynamic among and confluence of simultaneous attributes including being a woman, a highly trained natural scientist, a rather young political leader, and a child from a Protestant home. The intersection of these identities, which formed and combined in the context of the East German socialist regime, are likely to support a moderately progressive view on gender equality embedded in a protestant world view. Empirical studies on female politicians specifically indicate more complex and integrated views of politics due to a *triple* orientation towards politics, occupation, and family.⁹ While Richard Lehne claims that Merkel has 'not previously been widely identified with traditional

family policy or women's issues', we should be reminded that Merkel is professionally familiar with many concerns of working women and mothers.¹⁰ This familiarity would arguably have been achieved through both her earlier position as Federal Minister for Family Affairs (under the Kohl government in the early 1990s) and through her personal experience as an East German woman with a career in physics and quantum chemistry.

Coming from this particular multi-faceted background, what kind of policy choices did Merkel make in her first term in office? After the 2005 election Merkel found herself in an uneasy grand coalition of CDU/CSU and SPD. Initially, she had to assert her embattled claim to the Chancellery against the previous Chancellor and needed to work out how to rule with such an unusual political constellation. The grand coalition is an important factor for her policy-making choices and opportunities during her first term. Two basically opposed assumptions exist on grand coalitions: one position holds that policy inertia is the result of grand coalitions, because a coalition of parties with inherent ideological differences will lead to a lowest common denominator in decision and policy-making.¹¹ Geoffrey Roberts argues that in a grand coalition the '[r]esolution of controversial issues is postponed', leaving important policy issues unsettled.¹² The opposing view argues that because of the sheer size of the voting bloc grand coalitions instead can enact profound policy reforms, if the coalition is collaborative.

Due to the logic of party competition and Merkel's identity as a leader, the Merkel-led CDU in a grand coalition should move to the right of the SPD/Greens and to the left of the traditional CDU/CSU. When we bring gender into the equation, we should also expect that Merkel would potentially support a range of 'women-friendly' policies more than is typical of her party. This could shift some CDU policies into an overlap with the SPD and other more progressive parties. Because of the dynamics of the grand coalition, we expect overall politics in Germany to be rather centrist. This would allow limited room for female leadership to pass and implement women-friendly policies if no partisan deadlock occurs.

How can any leadership achieve substantial policy reforms in a grand coalition? *Five preconditions* for reform have been identified in the literature on grand coalitions: 1) ideological and programmatic shifts of the main coalition members; 2) temporal coalescence of various interests outside of party politics; 3) dominance of moderates in both major parties; 4) weakness of the opposition, and 5) effective leadership.¹³ These conditions shed light on the relevance of *agency* in the reform process while acknowledging institutional constraints. In the context of this article I am primarily interested in the fifth precondition of reform, effective *leadership*, and in investigating the relevance of gender and intersectionality for policy outcomes. Political leadership is the product of the interaction between the individual and the social context and it aims at making a difference in politics.¹⁴ Here we are especially interested in the question of when female leadership works for gender equality and when other situational, contextual, and structural concerns trump this implied value.

Scholars agree that women in high political office will recruit other women and probably build networks with them in politics.¹⁵ Of Merkel's 14 appointed cabinet members in her first term, six were women. Among them was Ursula von der Leyen, whom Merkel named to oversee the Ministry of Family Affairs, Senior

Citizens, Women and Youth (2005–09). Von der Leyen is the daughter of the influential former CDU -Governor of Lower Saxony, Ernst Albrecht, and his wife Heide Adele Albrecht. She became a member of the CDU in 1990. Originally seen as a perfect conservative candidate, a physician and a mother of seven with an upper-class background from a family steeped in conservative politics, she quickly challenged right and left stereotypes with her ideas and priorities. She has become somewhat of a political phenomenon over recent years due to her fresh perspective on family policy as reconciliation policy and her extraordinary ability to communicate these ideas to the broad public.

Von der Leyen can also be considered the most reform-minded Christian Democrat ever to hold her position up to that time and was also one of the most vocal and effective leaders advocating reform in the grand coalition. Consequently, her person and her policies have been widely admired as well as challenged. Through her tenure as family minister she has, however, received the quiet and continued backing of Chancellor Merkel. As a result, policy positions that were until 2005 anathema for the CDU/CSU have moved forward and positions on family policy that were traditional for the CDU/CSU have been undermined, even though the ministry head is a Christian Democrat. This paradox is known in the literature under the ‘Nixon-goes-to-China’ thesis which refers to the fact that profound reform sometimes comes from the politically least likely source as that source is not in danger of being suspect of selling out to the opposition.¹⁶

In addition to family matters, von der Leyen’s ministry is also responsible for the recently enacted anti-discrimination law. Obviously gender equality issues in employment, housing, insurance etc. play a core role for women’s quality of life and should logically be central to substantive representation. Have then similarly deep reforms been pursued and enacted in the arena of anti-discrimination by Merkel and von der Leyen? If (female) leadership matters for *all* areas of substantive representation we should expect *comparable support, effort, and publicity* for both areas under the ministry’s control. The following section will first describe and assess the political content of and changes to family and anti-discrimination policy changes since 2005 and, second, depict and evaluate Merkel’s active support/passive allowance or disapproval in these two policy areas according to the three hypotheses developed in the introduction.

THE CASE OF FAMILY POLICY: SUCCESSFULLY BREAKING THE MOULD

Historically, West German family policies have been deeply marked by retaining the status quo of a male breadwinner model and have only recently experienced substantial reform.¹⁷ Family policy in West Germany traditionally includes all manner of payments to parents (usually to fathers), which supports a male breadwinner model and preserves the traditional division of labour. Through conservative tax splitting procedures, parents also receive substantial payments when women earn less than men, costing the state about €20 billion each year. Only in the last two years of the Red–Green government did policies shift in a more progressive and egalitarian direction.¹⁸ The preparation for this shift was initiated by the recommendations of the EU Council in 2000, which advised EU member states to aim for a female employment rate

of 60 per cent by 2010, a level of childcare covering 90 per cent of three to six year olds and 33 per cent of children younger than three. Additional motivation came from concerns over the low German birth rate and an expert report on 'sustainable family policy' which advocated a shift to the new parental leave policies.¹⁹ Current direct transfer payments to families in Germany account to over €5 billion (€5,042,650,000) in 2009, €4 billion of which go to the newly established income-related parental leave (see below).

During her first term, Minister von der Leyen supported the policy of her Social Democratic predecessor, Renate Schmidt, with regard to progressively reformed childcare, parental leave, and tax policies. I interpret this overlap with her predecessor from the opposing party as an example of intersectionality and female leadership: while both women were leaders in different political parties they were also furthering what they saw as women's common and substantive interest in the reconciliation of work and family. Yet, unlike her predecessor, von der Leyen enjoyed enough popularity and numerical and political support (via the grand coalition and Merkel's supportive leadership) to implement these policies against powerful veto players and without fearing a massive backlash.²⁰

In staffing her ministry, von der Leyen picked both males and females as high-level employees, among them two male state secretaries, Hermann Kues and Gerd Hoofe. On a departmental level of the ministry, she has retained staunch Social Democrat and former advisor to Renate Schmidt, Malte Ristau-Winkler, as the head of the department for family (department 2). As the head of the gender equality office the minister picked Eva Maria Welskop-Deffaa (department 4), who has been active in Catholic women's organisations. In sum, von der Leyen has largely retained the personnel of the prior SPD/Green administration working on family issues and has adopted some of their major policy ideas. As a result, family policy in the CDU and the SPD has converged, powerfully frustrating many conservative party members and some on the left as their political demands are co-opted.²¹

Two significant reform packages were passed in 2007 and 2008 under the active leadership and guidance of Minister von der Leyen and with the support of Angela Merkel. The first large reform package centres on the introduction of income-dependent parenting benefits (*Elterngeld*) and constitutes the heart of the family reforms. Originally conceptualised by the Green Party, this reform amounts to €4.5 billion in government spending. This important reform replaces the low compensation of an (approximately) €300 standard payment granted to *all* mothers during maternity leave with a 67 per cent compensation of any woman's previous salary (up to a maximum of €1800 per month). This is a comparatively major institutional and normative change and illustrates that the modernisers in the grand coalition have been able to successfully assert their ideas against the classical breadwinner model. Low-income earners, the unemployed, and those on welfare, however, find themselves with less support than previously because of newly reduced transfer payments and shorter durations of payment.²²

Another measure is a time-based benefit: the 'father's months'. 'Daddy' or 'Father's months' are a two-month parental leave that can only be claimed by the 'other' parent, i.e. usually the father. The introduction of non-transferable father's months was also suggested in the regular German reports submitted in accordance with the UN

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 2003 and presented again in 2009 by Eva Maria Welskop-Deffaa.²³ Father's months have elicited strong opposition from the conservative wing of the CDU, because they encourage a change in the familial roles and responsibilities of men. So far conservatives have interpreted the 'family' exclusively as women's domain when it comes to policy. Taking men into account and to task (if ever so gently) signals a shift away from institutionalised gender difference to gender-sameness. Not surprisingly, conservatives were adamantly opposed to this reform.

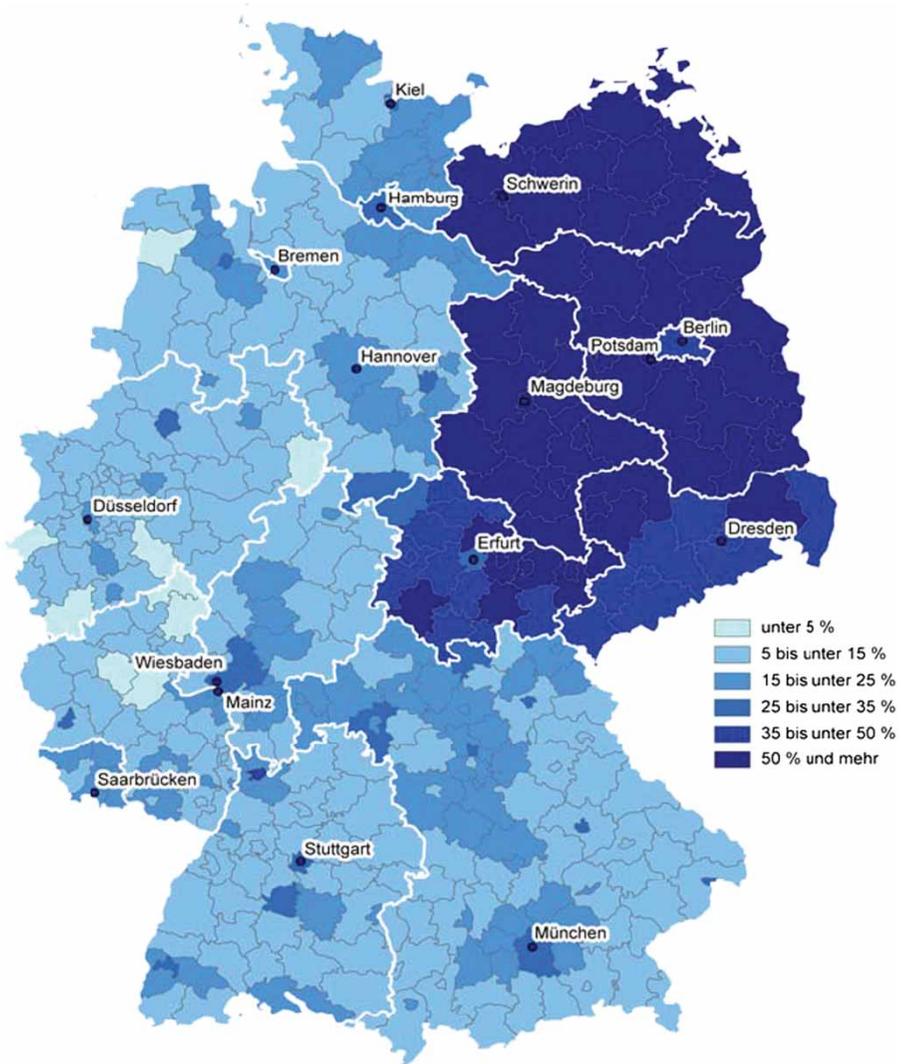
Another, smaller measure represents an increase in tax allowances for childcare – amounting to €460 million of governmental support. This tax write-off of up to €4000 annually supports dual-earner couples, single parents, and also traditional, single-earner two-parent families. This new policy could however increase the social stratification among families along class, and possibly ethnic, lines.

The second reform package is the *Kinderförderungsgesetz* (KiföG), which passed in September 2008 and is a law that aims at expanding the childcare-related infrastructure, such as crèches, all-day childcare facilities, and other services for parents with very young children. The goal is to bridge the time gap between the first 14 months (parental leave) and entry into kindergarten at age three. According to von der Leyen, Scandinavia and France served as models for this important infrastructural reform. The law is designed to make 750,000 places for children of this age group available by 2013, covering a third of all those children. This is also a goal proposed by the EU, which is becoming more interested in such arrangements as they pertain to employment and demographic needs, a change in outlook that has been described as 'social investment' discourse.²⁴ In the case of childcare facilities, the grand coalition has committed to spending €4 billion in the coming five years to explicitly and exclusively fund local crèches, new buildings, and personnel in the 16 states. The need for spending and infrastructure construction is higher in the former West German states, since the male breadwinner model led to long-term underdevelopment in the delivery of public childcare (see maps in Figure 1 on actual childcare quotas).

With the exception of the so-called care credit proposed by the CSU in form of a monthly cash benefit of 150 Euros for stay-at-home mothers, Merkel and von der Leyen have both supported the above reforms. But have they done so as women or because they are interested in appealing to potentially new and younger voters or in response to societal or economic demands? These questions are difficult to answer since we cannot exactly discern from what perspective(s) and with what motivation(s) Merkel and von der Leyen act. Shifting this policy area, however, into an overlap with recent demands from the SPD and the Greens, and the European Union seems to indicate an extra push towards a more comprehensive approach to reconciling female employment and motherhood. We contend that while strategic political goals matter, these female leaders push for reconciliation also on the grounds of personal and normative convictions in the validity of substantive gender equality, born out of lived experiences and identities.

Overall, citizens have looked favourably on reforms in the area of family policy. Younger voters and women are especially supportive, while older conservative male voters have been much less sympathetic to these changes. The reforms in the area of family policy can be seen as a 'societal revolution' that is pushing out pre-Merkel

FIGURE 1
 CHILDCARE QUOTAS FOR CHILDREN UNDER AGE 3 IN LOCAL COMMUNITIES,
 MARCH 1 2010



Note: Percentage of Children in publicly funded childcare, who do not visit a daycare facility in addition and children in daycare centers of this age group.

Source: Statistisches Bundesamt, *Kindertagesbetreuung regional 2010, Ein Vergleich aller 412 Kreise in Deutschland*, Wiesbaden, 2011, p. 13. © Statistisches Bundesamt, Wiesbaden 2010.

era perspectives among the CDU members and other voters, as well as undermining the traditional division of labour. All this is being achieved with Angela Merkel's support through what one article termed a 'women's revolution from above'.²⁵ The effects seem to be nearly instantaneous and overwhelmingly positive: in a 2009 survey by

the research institute Allensbach 50 per cent of those surveyed assessed the situation of families as improved by the current reforms while only 5 per cent saw the situation as deteriorating.²⁶ Overall acceptance of income-dependent parenting benefits (*Elterngeld*) has increased from 61 per cent in December 2006 to 73 per cent in January 2009 to 77 per cent in July 2009, while opposition fell from 16 to 11 per cent.²⁷ At the same time, however, 74 per cent of respondents are still unsatisfied with the ability to reconcile employment and family and would like more and better childcare facilities.²⁸

The continuation of reform in the face of broad social recognition of these changes means that Merkel is not afraid to sign off on policies that substantially challenge traditional – or, more accurately, West German – notions of gender. Here her East German identity might come into play, as she is sympathetic to a gender-sameness approach instead of the West German gender-difference approach. Further, even if the changes have the potential to alienate a core constituency of CDU voters, Merkel appears willing to do so *if* a) she believes that she can simultaneously appeal to new voters, such as younger couples and women, and b) the reforms are specifically targeted at mothers and families. Mothers not only represent a majority of women, but also voters historically courted by conservative parties in Germany. Importantly, Merkel's support for the new family policy is firm despite the fact that (or perhaps because) Merkel herself is not a mother. This support clearly indicates that she recognises their concerns and supports the struggles of women to combine work and home life. However, Henninger, Wimbauer and Dombrowski's study shows that the mothers targeted in the reforms are middle-class women. Middle-class women profit more from wage-related benefits and tax write-offs in the reform measures than working-class women. In terms of the effects of the reform on social stratification, working-class and minority women will likely fare worse.²⁹

THE CASE OF ANTI-DISCRIMINATION POLICY: A GERMAN PAPER TIGER

While much has been written on reforms of German family policy, far less is known about the more recent changes for women in employment, particularly about the newly passed General Equal Treatment Act (*Allgemeines Gleichbehandlungsgesetz*, AGG) and the founding of a federal anti-discrimination office (*Antidiskriminierungsstelle des Bundes*). Civil rights, such as protection from discrimination, are based on liberal values and those affiliated with the struggle for individual and property rights. Modern arguments for anti-discrimination measures also hark back to such individual rights, but extend to group aspects such as gender, ethnicity, disability, and sexual orientation. As the literature has shown, the strength of the class-based right-left cleavage produced a weak tradition of liberalism in German history. This weakness undermined efforts to establish a liberal women's movement with its concomitant demands for equal treatment and equal pay. Instead the German path stands in contrast to the situations in the US, the UK, and France, which developed equal pay and anti-discrimination measures in the early 1960s and 1970s.³⁰

The comparative delay of anti-discrimination policy in Germany stands in contrast to the actual material inequality experienced by employed women. Currently, women in Germany are among the lowest in the equal pay rating in the EU; in a global equal

pay comparison Germany ranks 71st. The life income of women compared to men stands at surprisingly low 42 per cent.³¹ Women make up 70 per cent of people working in the lowest income bracket in Germany (about 3.32 million), who work for less than €7.50 per hour, and overall women represent only 5.5 per cent in top management.³² With women's full-time employment relatively low in Germany and tax splitting law discouraging equal incomes, progress towards equal pay, equal treatment and opportunity, less sex segregation in employment, and a gender balance in care work has been rather slow. In theory, these disparities present an ample field for more substantive representation of women's interests in anti-discrimination, and thus an opportunity for reform from the ministry and the Chancellery. However, Merkel's and von der Leyen's track records are remarkably weak on gender equality for employed women. Their support for the AGG is at best ambivalent and at worst negligible. To understand this stance, it is not only crucial to study the institutional and partisan factors at work but also the intersectional identity of the two leaders in question.

The Green party developed and supported the launch of an anti-discrimination law (then referred to as ADG) after first entering parliament in 1983. The established parties (conservative, liberal, and left) resisted such ideas and argued that anti-discrimination legislation was not necessary because of existing constitutional provisions (CDU) or that they would disturb the autonomous labour relations between capital and labour (SPD, FDP). No anti-discrimination legislation was discussed or passed at the federal level during the 16-year reign of Chancellor Helmut Kohl. Instead, local entities became the first and only responders to the urgent need for problem solving in the face of persistent women's inequality and discrimination, but without a federal law their resources and powers were severely limited.

A wave of institutionalisation occurred with the dramatic rise of women's equality offices in West Germany between 1985 and 1989: in 1985 there were 45 offices and in 1989 there were 600; in 2005, after unification, the number climbed to about 1900. Throughout the 1970s, the autonomous women's movement was adamantly opposed to working with 'the state', but this stance changed in the 1980s and cooperation ensued although the powers and effectiveness of this new 'women's policy machinery' was highly circumscribed because they were mostly limited to advisory functions.³³ This change can be understood as a state-level partisan strategy: in lieu of a federal anti-discrimination law under the Christian Democrats, regional Social Democratic governments began to address a variety of women's concerns on the state and municipal level. Soon after, Christian Democratic states also began to support women's equality offices, albeit with fewer resources and powers. When unification took place, the towns and states in former East Germany adopted the West German model of separate treatment for women, even though that model did not fit prior patterns of equal treatment and class cohesion.

These offices did not take class, ethnicity or race-based anti-discrimination measures into account (for either men or women) nor did they later address potential discrimination issues based on East German identity. In sum, these equality offices gave generalised 'women's concerns' a symbolic place but ignored other dimensions of discrimination while leaving women legally and economically out in the cold.

When the Red–Green government came into power in 1998, an anti-discrimination law was proposed in the second legislative period, on 17 June 2005, reflecting not only

a long-standing Green programmatic goal, but also an EU demand for improved employment rights and equal treatment for women. Similar to other EU states with anti-discrimination laws, the resultant SPD/Green proposal included the following: eliminating discrimination in the workplace, a section aimed at discrimination in private business (such as housing, insurance, restaurants, etc.), and a section proposing the establishment of a national commission to monitor the implementation process, similar to the British Equal Opportunity Commission. However, a majority of conservative states were able to use their veto power in the Bundesrat, defeating the initial federal law in September 2005.

The arguments brought against anti-discrimination legislation were threefold: First, according to opponents such a law would have negative *economic* effects, such as rising prices, falling profits, and job losses. Second, opponents who were *legal* professionals argued that an avalanche of lawsuits would clog up the courts. Finally, *cultural* opposition formed on the grounds that anti-discrimination was equivalent to a ‘cultural revolution’ and a social ‘re-education project’.

The CDU was in bitter opposition to the law because its core constituents – churches, employer organisations, and conservatives – came together against the proposed anti-discrimination law. Angela Merkel, then CDU party leader in the opposition, supported the economic critics and coined the term ‘absolute job-killer’ to describe the effect this anti-discrimination law would supposedly have on Germany.

After the failure of the Red–Green government to pass the ADG, and the subsequent election of the grand coalition, the law was grudgingly taken up by the new government due to continuing EU pressure. First it was renamed as the General Equal Treatment Act (*Allgemeines Gleichbehandlungsgesetz*, AGG), thereby removing the idea of discrimination from the title. The AGG was passed in a weaker version by the grand coalition under Merkel in late 2005 and became law in August 2006.

The AGG pulls together existing disparate laws and protections and establishes a separate anti-discrimination office. Due to parameters set by the EU the law expands anti-discrimination to cover ethnicity and sexual identity in addition to religion, political conviction, and disability in the areas of access to jobs, education, and benefits. It simultaneously allows for the recognition of women’s reproductive difference from men, and for preferential treatment of women in underrepresented positions through so-called ‘positive action’. In all of these aspects the law can be seen as a large step forward for gender equality but also for other potentially intersecting concerns.

The overall reception of the AGG in Germany was however decidedly muted: on the one hand, not much changed because the public was still relatively unaware of the anti-discrimination law; on the other hand, it lacked broad political support. None of the political parties wear the passage of the anti-discrimination law as a badge of honour. Its passage is overwhelmingly seen as the result of external EU pressure or ‘political correctness’ and not as an attempt to tackle an array of important social and economic problems. Only women’s organisations and representatives of ethnic minorities – both politically marginal – welcome the anti-discrimination law as an important step forward even in its watered down version. The feared flood of lawsuits by women has not come to pass (actually, if at all, men have sued). It is remarkable that – in contrast to the issue of work–family reconciliation – there is no media coverage, no public discourse, and no informational campaigning about the AGG, discussing

problems and effects associated with discrimination in pay, career opportunities, retirement, or insurance.

The new bureaucracy that was part of the AGG is called the Federal Anti-Discrimination Office (*Antidiskriminierungsstelle des Bundes*, ADS) and was founded in 2006 with the passage of the General Equality Law. The initial budget of this institution stands at just under €3 million (€2.97). Dr. Martina Köppen, a trained lawyer, became the first head of the office. She hails from a decidedly Catholic background and previously worked as a lobbyist for the bishops' conference regarding EU issues. The ADS operates on a modest budget and employs a regular staff of 17 (plus five temporary employees), according to an interview with an ADS employee in November 2008.³⁴ Köppen has focused her efforts on building an 'alliance with the business community'. The first conference of the ADS was held in the atrium of the Deutsche Bank under the title 'Value-based Society as an Economic Factor', with an opening speech by Cardinal Karl Lehmann. As it stands at the moment the core approach to anti-discrimination is to formulate economic arguments for equality measures.³⁵

Members of the Green Party have criticised this emphasis as not in accordance with the actual law, which states the purpose of the office as the 'support of affected groups or individuals'. Indeed, the ADS has a limited remit and is officially responsible for informing the public, supporting and conducting research, and advising employees and employers in discrimination cases. The bureaucracy has little control and no enforcement powers, so that deep reforms similar to those of family policy are not expected according to employees at the ADS.

A *structural* hurdle to the efficiency of the ADS is also the *fragmentation* of equality policy in Germany: horizontal fragmentation exists because the ADS is separate from, and simultaneously competing with, established offices dealing with disability issues (Ministry of Social Affairs) or migration and integration (Ministry of the Interior). And there is a further level of vertical fragmentation due to the absence of the ADS bureaucracy in the 16 states and municipalities.

There also seems to be an ambivalence about whom to support and how. When asked about the extent and form of the presence of the ADS at the annual Christopher Street Parade in Berlin, the international gay and lesbian demonstration, it became clear that the office did not plan a presence there at all. This seemed particularly surprising as many organisations have information stands and events prior to or at this large demonstration. Furthermore, one of the three main objectives of the ADS is informing the public about the law. The reason given for the ADS's absence at such an event of its constituents was that 'if we are present at that event, we have to go everywhere else also'. Indeed, exactly that would probably be the law's intent.

While it is a big step forward that an agency like the ADS has come into existence in Germany, so far it has no profile or public presence, no state offices, and no enforcement mechanisms. Because of such serious shortcomings the Association of Female Lawyers in Germany has sent a letter of complaint to the EU. The representative of the association, Sibylle Raasch, claims that the new law falls behind 'the EU anti-discrimination regulations in central points'. Especially problematic according to the association are omissions in the area of social security, dismissals, damages, penalties, and the exclusion of class action suits.

The German CEDAW Alternative Report is also critical of the limited implementation of EU requirements and stated in November 2008:

The Federal Anti-Discrimination Office (*Antidiskriminierungsstelle – ADS*) was established when AGG entered into force on 18 August 2006. The authors of the present report fundamentally welcome this. We are, however, extremely concerned about the centre's independence and effectiveness. Neither has the German public been adequately informed about the existence of the ADS and its mode of operation, nor have the various groups concerned been made adequately aware of the services it offers. It is furthermore still not clear how the ADS intends to function in the 16 German Länder. As the management's term of office is linked to the legislative period, the impression could be gained that it depends on the political majority of the day.

Our recommendations to the federal government:

- *to take appropriate action to endow the ADS with additional investigative functions, together with the right to provide information, including to private parties, and to provide arbitration;*
- *to take steps to help enhance the impact of the ADS in the Länder.*³⁶

Minister von der Leyen has been uncharacteristically absent in pushing to inform the public of the ADS or advocating for a progressive approach to discrimination, so much so that the women's organisation of the SPD, the ASF, has criticised her harshly as a case of 'total loss' (*Totalausfall*) and 'clearly a wrong choice' (*glatte Fehlbesetzung*). While the passage of the General Equal Treatment Act indicates passive support from Merkel it can certainly be agreed upon that the publicity and effectiveness of anti-discrimination measures and their enforcement has been marginal at best.

On 30 November 2009 Ursula von der Leyen became the new Minister of Labour, taking over an important ministry that administers 40 per cent of the federal budget. Her successor is Kristina Köhler, a 32-year-old sociologist, has clearly been picked out above more experienced members of the CDU.³⁷ The newcomer Köhler is, as expected, continuing reforms with an emphasis on family policy while being less interested in anti-discrimination policy, although she is the first government representative who has advocated a specially targeted 'boys politics' to decrease the emerging education gap. But the overall impression of Köhler's performance during the first year is scattered and the ministry is lacking the previous skilled leadership.

Since spring 2010 the ADS has had a new head, Christine Lüders, a former teacher and Lufthansa executive unaffiliated with any party. Lüders seems to take the idea of anti-discrimination more seriously than her predecessor: in a turnaround, this year's ADS web page announced that Lüders would be at the opening of the gay and lesbian Christopher Street Day parade in 2010 and that she was 'available for individual interviews and photos' for the press. Inspired by French and American practices, Lüders has also begun discussions about the hitherto unknown practice of 'anonymous resumes' in German application processes. Applications without photos and other such personal identifiers will hopefully lead to more equitable application processes

in employment by not singling out ethnic minorities even before the interview process begins.

A REVOLUTION FROM ABOVE? AND IF SO, WHEN?

In the introduction I stated that due to female leadership one would expect a progressive *direction* of decision-making in the two gender-related policy domains and possibly a similar *extent* of reforms. Returning to the three hypotheses provided by the literature on female leadership, we find that they have generally provided an accurate assessment:

H1: Merkel DID improve reconciliation and anti-discrimination policy.

H2 She WAS cautious in appearing 'too supportive' and mostly kept in the background behind Ursula von der Leyen.

However:

H3: In contradiction to the literature, Merkel DID risk alienating core constituents with the reforms in family policy, particularly the 'daddy-month'. This risk was, however, limited to a smaller and today demographically less central group of constituents (conservative older males), while promising an influx of a new generation of centrist and younger voters. Merkel and her Minister did not extend these vigorous reform efforts for women's equality from family policy to anti-discrimination. Powerful business interests and the church have systematically rejected such measures. These constituents are taken very seriously as they continue to be extremely relevant for the CDU.

Taking stock of the implementation of two gender-related policies therefore shows that Merkel's level of concern for women *varies across specific issue areas*. The evaluation of the two cases indicates that so far the recent concern of enabling the reconciliation of *motherhood with labour activation* trumps the concern over equality for women *already in* the labour market. Social rights in the family seem to be strengthened and actively transformed under Merkel, while the implementation of civil rights in employment is only grudgingly supported. Considering that Chancellor Merkel and Minister von der Leyen have the power to represent women in employment, a core concern in modern economies, Merkel's initial hostility ('absolute job-killer') to anti-discrimination is quite remarkable. It is also significant insofar as Merkel hails originally from a state with an extremely high participation of women in the labour market. Merkel's East German experience does inform her political decision-making in interesting ways: one could argue that there is possibly a sense of achievement of relative gender equality stemming from the more egalitarian legacy in the new states. Thus, the comparison of the governance of two gender-related policy areas shows that factors other than values 'improving women's lives' played a major role in Merkel's decision-making process. These other factors are on the one hand experiential and, on the other, political and strategic. Her socialisation in East Germany comes into play as well as considerations based on established and useful alliances of powerful constituents.

Less powerful or marginal constituents like working-class women, ethnic and sexual minorities, women in sex-segregated positions, etc., are of considerably less

interest than German middle-class mothers for Merkel's CDU. They belong to other classes or groups and encounter social experiences with which neither Merkel nor von der Leyen could probably identify very well.

The election in September 2009 has ended the grand coalition and brought the liberals (FDP) into the government as a junior partner. Because of the neo-liberal and business-friendly perspective of the FDP, Merkel's ability to support progressive and centric reforms is weakened. The FDP is also the only party in parliament that has no women's quota, resulting in low female representation and little outreach to women.³⁸ The Liberals have been consistently against a federal anti-discrimination law and have only recently advocated state support of childcare, especially through tax breaks and a decrease in fees for public childcare. While we should expect the parental leave reform in 2007 and childcare reform in 2008 to be permanent, the CDU–FDP coalition will be more eager than the grand coalition to leave anti-discrimination legislation and implementation behind.

The lessons for the wider literature on gender, leadership, and intersectionality provided by these case studies are as follows: often, when the quality of female leaders is discussed, gender seems to trump other causes in explaining the quality of decision-making. This is a mistake, as identities of female (and male) citizens are far more complex and multi-dimensional. In our case, the intersectional approach helps us argue that the identities of female leaders cannot be understood simply through a gendered lens but must include class, race, religion, sexual identity, etc. so that we can fully take account of the multifaceted intersection of differing oppressions and privileges.

Similarly, intersectionality helps us to understand female citizens not just as 'mothers' or 'workers' but as holding these identities simultaneously. Female leaders have the possible advantage of understanding these compound identities in others more easily as such experiences may overlap with their own. Reconciliation policies are an expression of this insight. To think of political identities and their political effects in this vein produces more specific social perspectives than a generalised class – or gender – identity would suggest. As gender mediates and shapes the experiences of female leaders, through the specific hurdles or stereotypes they encounter, these experiences intersect with other factors that need to be included and explained in conjunction. Merkel's socialisation in East Germany (with its socialist egalitarianism), her Protestantism (with its centre-right values), her education in the natural sciences (with its emphasis on measurable observation and not ideology), and her middle-class background all come together to both complicate and help explain her decision-making as a female leader.

While intersectionality emerged from African-American feminist critiques of the American political system, I have tried to demonstrate here that intersectionality has a much broader theoretical potential that can be mobilised without loss of its inherent critical perspective. So far this potential is under-utilised both in political science and particularly in studies of Europe. As the political representation of women increases in parliaments and governments, the intersectional lens will be ever more useful and relevant for feminist analysis. Indeed, intersectionality has the capacity to deeply illuminate complex identities and choices across the globe and for other populations, including female leaders as they weave and change the net of political power for men and women.

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ACKNOWLEDGEMENTS

I would like to thank Louise Davidson-Schmich for her many efforts in organising this collection of essays over the last two years. Many thanks also go to the other contributors, who provided useful feedback and good cheer, as well as to the two anonymous reviewers whose comments were extremely helpful.

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