

Trajectories and transformations in disability policy: the case of Germany

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Overview

- Introductory remark
- How to analyse disability policy?
 - Basic questions
 - What is disability policy all about?
- Germany: the country, its history and welfare state
 - Germany today: principles of the welfare state
 - Germany: milestones of disability policy
 - Disabled people in Germany
- Disability policies in Germany: trajectories and transformations
 - Social protection, social inclusion
 - Rehabilitation and employment
 - Equal rights and non-discrimination
- How to analyse (national) disability policy?
 - Is Esping-Andersen's welfare state typology useful?
- Conclusions: Which lessons to learn from the case of Germany?

References of this presentation

- **ANED Reports (published): www.disability-europe.net**
 - Waldschmidt, Anne. (2009). Germany - ANED country profile. April 2009.
 - Waldschmidt, Anne. (2009). Report on the implementation of policies supporting independent living for disabled people – Germany. May 2009.
 - Lingnau, Kathrin / Waldschmidt, Anne. (2009). Report on the social inclusion and social protection of disabled people in European countries – Germany. State of affairs up to November 2009.
 - Waldschmidt, Anne / Lingnau, Kathrin / Meinert, Sandra. (2009). Report on the employment of disabled people in European countries – Germany. State of affairs up to November 2009.
- **Other publications: [www.idis-eng.uni-koeln.de / downloads](http://www.idis-eng.uni-koeln.de/downloads)**
 - Waldschmidt, Anne / Lingnau, Kathrin. (2008). "Civil Rights or Social Rights? Europeanization and its impact on the German anti-discrimination policy relating to disabled people." Presentation at the symposium "Citizenship & Disability", Academic Medical Center, University of Amsterdam, May 30, 2008.
 - Waldschmidt, Anne. (2009). Disability Policy of the European Union: The supranational level. In: Alter - European Journal of Disability research, Revue europeenne de recherche sur le handicap, 3(1), pp. 8-23.

Basic questions

- How is 'dis/ability' problematised? Which 'problems' need to be solved?
- What are the functions, tasks, and objectives of disability policy?
- What principles does disability policy follow?

- How is disability policy embedded into and influenced by mainstream policy, policy, and politics?
- How is disability policy framed through (national, European, global) social models and the (national) welfare state?

What is disability policy all about?

Disability is relevant in and for these policies:

1. Health, beginning and ending of human life
2. Income transfer, welfare
3. Education and training
4. Employment and labour market integration
5. Mobility, accessibility, assistive technologies
6. Human rights, civil rights, non-discrimination
7. ...

Disability policy is a "policy mix" currently consisting of these main areas

- **social protection / social inclusion**
- **rehabilitation / employment**
- **civil rights / equalization**

(cf. Maschke 2004)

Disability Policy is a "policy mix" consisting of "old" policies and "new" policies

- social protection / social inclusion
- rehabilitation / employment
- civil rights / equalization
- **"traditional" labour-centred policy: providing social rights for disabled people**
- **"new" rights-centred policy: providing human, civil and political rights for disabled people**

How are they interrelated?

(cf. Marshall 1992; Leibfried 2006)

Germany: the country, its history and welfare state

- In 1871 the "German Reich", a constitutional monarchy, was established. The Prime Minister, Otto von Bismarck, was the founder of the German welfare state
 - Social insurance for health (1883), industrial accidents (1884), invalidity and old age (1889) was introduced
- After World War I (1914 – 1918) the "Weimar Republic" (1919 – 1933), a parliamentary democracy, saw further development of the welfare state
 - Welfare and poverty relief on the local level
 - Compensation for war victims by the state
 - Social insurance for unemployment was introduced in 1927
- The National Socialist "Third Reich" (1933 – 1945) used the welfare state for its social Darwinist and bio-political objectives
- After World War II (1939 – 1945) and during the period of division (1949 – 1989) welfare states in both parts of Germany were established
- In 1990, Germany regained full sovereignty. The former German Democratic Republic got incorporated into the "Federal Republic of Germany"
 - Social insurance for long-term care was introduced in 1995

Germany today: principles of the welfare state

- Germany is "a democratic and social federal state" (see [Basic Law](#), Sections 20, 28)
- **Federalism**: The responsibility for social policy is shared between the national state, the 16 federal states (Länder), and local government
- Three main pillars: *welfare* for those in need, *compensation* for those with merits, *insurance* for the members of the workforce
- **Subsidiarity**: services are mostly independently managed, and the level of state intervention is to be residual
- **Selectivity**: social policy focuses on the part of the population who is/was active on the labour market; most social benefits are earnings-related
- **Compensation**: benefits are considered as a right, but only for short-term periods and for services in advance
- **Institutionalization**: there are specific welfare institutions, run in "social partnership" of employers and trade-unions, but controlled by the state

Germany: Milestones of disability policy

- **1945 - 1960s:** focus on war victims and accidents at the workplace; people with "civilian" disabilities are neglected and referred to public welfare
 - Law on assistance for seriously impaired victims of wars and of occupational accidents [Schwerbeschädigtengesetz] 1953; Federal Social Assistance Act [Bundessozialhilfegesetz] 1961
- **since 1970s:** focus on the principles of rehabilitation and integration; disability law is extended to all people with disabilities regardless of causes and types of impairments; there are efforts of better coordinating the services
 - Severely Disabled Persons Act [Schwerbehindertengesetz] 1974; Alignment of Rehabilitation Assistance and Benefits Act [Rehabilitationsangleichungsgesetz] 1974
- **since the 1990s:** there is a shift towards self-determination and participation; equal rights get slowly integrated into disability policy
 - Amendment of Basic Law 1994; Social Code Book IX – Rehabilitation and Participation 2001; Act on Equal Opportunities of Disabled People 2002; General Equal Treatment Act 2006
- **since 2007:** Germany signs and ratifies the UN Convention, but is reluctant to transform disability policies in alignment with it; public debate focuses on the principle of inclusion

Disability Status in Germany

- **There is an official definition of disability (cf. section 2, SGB IX):**
 - People are disabled if their physical functions, cognitive abilities or mental health differ from conditions typically for their age, if their health condition lasts longer than six months, and hence their participation in society is affected
- **People can register as disabled:**
 - The person or his/her parents or guardians have to apply for the status
 - The person has to undergo a medical assessment conducted by special, formally registered experts
 - The disability pass is issued by a national social security authority [Versorgungsamt] which has regional offices
 - The pass indicates the personal "degree of disability" (20-100) and additional qualifiers (Bl, G, aG, B etc. = blindness, wheelchair user etc.)
 - Registration as a disabled person offers access to benefits, entitlements and special rights

Disabled people in Germany

- **Every two years, the federal disability statistics counts people who are officially registered as "severely disabled" (disability degree: 50-100)**
 - Germany's disability population in 2007:
 - *Number and percentage:* 6,9 million people with severe disabilities = 8,4 % of the population
 - *Age:* over 46 % belong to the age group of 55 – 75 years; only 4 % are under 25 years of age
 - *Gender:* male 52 %; female 48 %
 - *Impairments:* over 64 % have physical impairments; 10 % are cognitively or mentally impaired
- **"Mikrozensus", a representative population survey, counts disabled people in households and includes those with minor impairments**
 - In 2005 people with minor *and* severe impairments formed roughly 10 % of the German resident population

Social protection policies for disabled people: principles, laws, and programmes

- **Principles**
 - Subsidiarity; "integration assistance before long-term care"; self-determination and participation; community care as priority
- **Laws**
 - Social Code Book XII – Social assistance: integration support, basic support in old age and full reduction in earning capacity
 - Social Code Book XI – Long-term care insurance
 - Social Code Book IX – Rehabilitation and participation
 - Additionally: health insurance (Social Code Book V), old age insurance (Social Code Book VI), occupational accident insurance (Social Code Book VII), basic support for job seekers (Social Code Book II), children and youth welfare (Social Code Book VIII)
- **National programmes / good practice**
 - Personal budget (direct payment scheme, a legal right since 2008)

Social protection policies for disabled people: outcomes and outputs

- The number of residential institutions for old people and for disabled people has increased in recent years
 - 9,743 institutions existed in 2003
 - Between 1999 and 2003 figures increased by 10%
- In 2003 there were ca. 5,100 institutions for people with (severe) disabilities which offered about 179,000 places
 - Roughly 60% of these places were occupied by persons with intellectual disabilities
- In 2008 around 10,000 personal budgets were in operation
- Ca. 1,500 to 2,000 disabled people organize their personal assistance on the basis of the called "employer model"

Social protection policies for disabled people: trajectories and transformations

- The long-term care insurance applies a medical and nursing concept of care needs as well as the principle of subsidiarity
- Intensive home care and individualized personal assistance are additionally covered by the social assistance system which involves means testing
- Priority of home care is the official goal, but there is a tendency towards more care in institutions, and community-oriented care services are insufficient
- Officially disabled people have the right to opt for home care, but there have been cases of compulsory institutionalization
- Since the 1980s independent living and personal assistance have been promoted by the disability rights movement
 - Today, personal assistance is principally available for all important areas of daily living such as private homes, work places, schools, universities and vocational training

Employment policies for disabled people: principles, laws, and programmes

- **Principles**
 - "integration assistance before pension payments"; self-determination and participation; integration in the regular job market as priority; equal treatment
- **Laws**
 - Social Code Book III – Employment promotion
 - Social Code Book II – Basic support for job seekers
 - Social Code Book IX – Rehabilitation and participation
 - Act on the Promotion of Severely Disabled People's Vocational Training and Employment
 - General Equal Treatment Act
 - Additionally: health insurance (Social Code Book V), old age insurance (Social Code Book VI), occupational accident insurance (Social Code Book VII), social assistance: "integration support" (Social Code Book XII)
- **National programmes / good practice**
 - "Job – Jobs without Barriers" (2004 – 2010)
 - "Job4000" (2007 – 2013)
 - "JobBudget" (2008 – 2011)
 - Supported employment (section 38a, SGB IX; since 2009)
 - Occupational integration management

Employment Integration Assistance: Social Code Book IX, Part 2

- It places public and private employers under obligation to fill 5 percent of their positions with severely disabled persons or to pay a compensatory levy for unfilled mandatory quota places (Sections 71 et seq.)
- It obliges employers to take special responsibilities for severely disabled employees (Sections 81 et seq.)
- It protects severely disabled employees against unlawful dismissal after they have been employed for six months (Sections 85 et seq.)
- It protects the interests of severely disabled persons at the workplace by allowing them to elect a severely disabled employees representative (Sections 93 et seq.)
- It offers supplementary assistance granted by the Federal Employment Agency and the integration offices to severely disabled persons to facilitate their participation in working life (Sections 101 et seq.)

(cf. Bundesministerium für Arbeit und Soziales 2009)

Employment policies for disabled people: outcomes and outputs

- In 2005 the vast majority (6,4 million) of disabled persons in Germany did not participate in working life
 - The activity quota of disabled men reached about 30% and the rate of disabled women amounted to 23%
- In 2005 about 27% of employers did not employ disabled staff although they were obliged to do so according to the quota system
- In 2002 about 227,000 persons and in 2007 about 275,500 persons worked in sheltered workshops
 - For comparison: in 2006 about 930,000 people with disabilities had employment in the regular job market
- (Long-term) unemployment remains a major issue
 - In 2005 the overall unemployment rate of non-disabled people was 11,1%, whereas 14,5% of disabled people were unemployed
 - During the period of economic growth 2005 – 2008 the unemployment rate of disabled people *fell* by more than 14 per cent, but the number of those disabled people affected by long-term unemployment *rose* by 3%

Employment policies for disabled people: trajectories and transformations

- Germany has a long-established, comprehensive system of vocational rehabilitation and job market integration, but the overall results of active labour policies are disappointing
- State authorities tend to restrict their view only to severely disabled people who have an official disability status
- In recent years at least disabled women have slightly caught up with employment participation, but there are big problems with disabled migrants
- The persistent increase in places in sheltered workshops indicates a tendency towards exclusion from the open job market
- Federal government job programmes are helpful, but so far they have not changed the general situation

Equal rights policies for disabled people: principles, laws, and programmes

- **Principles**
 - human rights; equal rights; equal opportunities; equal treatment; prevention of and protection against (direct and indirect) discrimination (and harassment); accessibility; participation and inclusion; self-determination
- **Laws**
 - Basic Law, article 3, paragraph 3, clause 2
 - Act on Equal Opportunities of Disabled People
 - General Equal Treatment Act
 - UN Convention on the rights of people with disabilities
- **National programmes / good practice**
 - "Anonymous application procedures", a project launched by the Federal Anti-Discrimination Agency in 2010

Equal right policies for disabled people: outcomes and outputs

- Of course disabled people in Germany are confronted with many kinds of (direct and indirect) discrimination (and harassment), but
 - the existing data is patchy, inconsistent and not very reliable
- As yet there is no reliable statistical data available about
 - whether non-discrimination legislation has had an impact on the living conditions of disabled people

Equal right policies for disabled people: trajectories and transformations

- Germany has been reluctant to implement EU non-discrimination legislation
- It needed changes at home
 - disability rights movement was very active
 - change from conservative to social-democratic government in 1998
- It needed pressure from the outside
 - top-down EU pressure: The EU equality directives are binding for member states which risk contract penalties in the case of non-compliance

Three welfare state regimes (cf. Esping-Andersen 1990)

Welfare state regime	social-democratic / universalistic	liberal economic	conservative-corporatistic
Principle			
social rights	high degree of de-commodification	low degree of de-commodification	low degree of de-commodification
social stratification	emphasis on social equality	social inequality is accepted	status orientation
the state, the market and the family	state orientation	trust in market forces	state paternalism

Disability Policies in Germany		23		
Disability policy and welfare (state) regimes (cf. Waldschmidt 2009)				
Welfare (state) regime Disability policy	Social-democratic / universalistic	liberal	conservative-corporatistic	
Welfare / income security / social protection	XXX	X	XX	
Rehabilitation and employment policy	X	XX	XXX	
Civil rights / equalization policy	XX	XXX	X	

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Disability Policies in Germany		24		
Conclusions				
<ul style="list-style-type: none"> ▪ There are global challenges to traditional disability policies ▪ Like other countries Germany's disability policy is facing <ul style="list-style-type: none"> ▪ the challenge of internationalisation <ul style="list-style-type: none"> ▪ European Union ▪ UN Convention ▪ the need of cross-cutting and restructuring policy domains <ul style="list-style-type: none"> ▪ Disability policy is developing into a transversal policy field ▪ the need of conceptual change against the background of general societal transformations <ul style="list-style-type: none"> ▪ Activation, flexibilisation, and normalisation, in short: modernisation of late capitalist societies 				

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Thank you for your attention!

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