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Game-Changers for Gender Equality in Germany's Labour Market? Corporate Board Quotas, Pay Transparency and Temporary Part-Time Work

PETRA AHRENS and ALEXANDRA SCHEELE

With a women's employment rate of 76.6 per cent, Germany now ranks among the top EU countries regarding equal labour market participation. However, substantial differences in the employment patterns of women and men persist in the form of 'typical' women's and men's jobs, women's underrepresentation in higher management, a high women's part-time rate and a considerable gender pay gap. Since 2005, four CDU-led governments have adopted various labour laws, with the most recent of these potentially transforming gendered inequalities. The 2016 corporate board quota law addressed vertical segregation, the 2017 pay transparency act is seen as a means of tackling the enormous gender pay gap and the legal entitlement to temporary part-time work, which came into force in 2019, may tackle the so-called 'part-time trap' many women fall victim to. The article examines the implementation impact of the latest labour market reforms and discusses the ways in which they are potential game-changers in transforming the German gendered labour market.

INTRODUCTION

By introducing gender quotas for executive boards with the *Zweites Führungspositionengesetz* (Second Act on the Proportion of Women in Executive Posts) in June 2021, the Grand Coalition of the Christian Democratic Party/Christian Social Union (CDU/CSU) and the Social Democratic Party (SPD) made a landmark decision amid the COVID-19 pandemic. During most of Angela Merkel's four terms as chancellor, her governments refrained from adopting labour market measures explicitly promoting gender equality. Generally, gender equality in the labour market received – apart from family policies increasing childcare provisions – almost no attention. Arguably, the overall positive labour market trends made measures geared at women's employment seem unnecessary.

Employment rates in Germany for both women and men are comparatively high. In 2020, the women's employment rate (age 20–64) was 76.9 per cent, significantly above the EU-27 average of 66.9 per cent but still well below men's employment rate of 83.1

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per cent in Germany. Relying purely on employment rates, however, conceals an important gender gap: in 2019, the share of part-time workers among employed women was 44.7 per cent, as compared to only 11.5 per cent among men; the share of part-time workers among employed women is also much higher than the EU-28 average of 34 per cent among women workers. Consequently, the full-time employment rate (FTE) for women was only 59.4 per cent in 2018, as compared to men's 80.2 per cent (Eurostat 2020a, FTE only available for 2018).

Moreover, the quality of women's and men's employment differs significantly: gendered labour market segregation is pronounced, both horizontally – 'typical' women's and men's jobs, in which one gender constitutes more than two-thirds of the workforce – and vertically, with women being underrepresented in higher management. Gendered labour market segregation hampers women's employment opportunities. Women-dominated sectors such as retail and care rarely offer full-time employment or meaningful career opportunities, the prestige is low and income prospects are limited (Hausmann, Kleinert, and Leuze 2015; Koebe et al. 2020). Overall, women have fewer weekly working hours, work for fewer years, have lower incomes and are more often at risk of poverty, especially if they are single parents.

Gendered work inequalities are the result of a strong male breadwinner model that defined social relations in pre-unification West Germany (Lewis 2001). The German conservative welfare state had historically been a constant laggard in adopting gender equality measures (Lang 2017; Marx Ferree 2012). Despite this legacy, 'Germany is progressing towards gender equality faster than the EU' and, as compared to the EU average of a 5.4-point gain, gained 6.9 points between 2005 and 2017, stabilising its number twelve ranking on the EIGE European Gender Equality Index (European Institute for Gender Equality 2019). Whereas the early years of Merkel's chancellorship display uneven commitment to gender equality in labour market and family policies (Henninger and von Wahl 2014; Lang 2017; Marx Ferree 2012), recent policy reforms under Merkel's leadership are pointing in a new direction, indicating a change from actively resisting to actively facilitating gender equality.

In this article, we examine the adoption of three major policy reforms during Merkel's last two terms and discuss how their implementations may affect gender equality. These are the (1) *Gesetz für die gleichberechtigte Teilhabe von Frauen und Männern an Führungspositionen* (Corporate Board Gender Quota Act), (2) *Gesetz zur Förderung der Transparenz von Entgeltstrukturen (*Pay Transparency Act) and (3) *Gesetz zur Weiterentwicklung des Teilzeitrechts – Einführung einer Brückenteilzeit* (Temporary Part-Time Act). We ask how and why these reforms were adopted, investigating the actors that pushed for them and Angela Merkel's leadership role in their adoption and implementation.

We approach these questions by building on the Gender Equality Policy in Practice Approach (GEPP), which requires analysing (1) the chosen policy instrument employed to address a certain gender inequality; (2) the actors involved, their power struggles and the potential empowerment of new actors and, finally, (3) whether the policies help eliminate gender inequalities (Engeli and Mazur 2018). Addressing the first and third aspect, we examine adoption and implementation frames and discourses by comparing laws in both draft and post-adoption form, debates in the German Bundestag, evaluations of law implementation and the potential impact of such in terms of creating a more gender-equal labour market. Regarding stakeholders, we compare different positions over time by examining websites, press releases and publications by relevant actors and the broader public in newspaper articles and parliamentary debates.

We start by summarising the laws and reports relevant to gender equality that provide the broader institutional framework of labour market policies. Next, we describe gendered labour market developments during the early Merkel era. Then, we analyse our three cases in-depth before discussing their impact on the German gendered labour market.

THE INSTITUTIONAL FRAMEWORK OF THE GERMAN LABOUR MARKET

Although the German Basic Law of 1949 declares that 'Men and women shall have the same rights' (Article 3 (2)), two axiomatic reforms were necessary to formally establish gender equality: the marriage and family law reform of the Civil Code in 1976 (Ostner 1991) and the reform of the Basic Law in 1994, which obliges the state and its bodies to put equality principles into effect and prevent all forms of discrimination against women. The 2006 *Allgemeines Gleichbehandlungsgesetz* (Anti-Discrimination Law) and the *Bundesgleichstellungsgesetz* (Federal Equality Act), moreover, ensure equal treatment in the workplace. Since 1985, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ)[1] has been charged with all issues regarding gender equality. Nevertheless, it took Germany until 2020 to adopt a national gender equality strategy under the leadership of BMFSFJ Minister Franziska Giffey (SPD).

While the 2005 CDU electoral programme developed under Merkel's leadership limited gender equality to the 'better reconciliation of family and career' (CDU 2005), the SPD promised a comprehensive 'Report on Equality between Women and Men' as a foundation for attending to gender across all policies and forced the report into the coalition agreement. Publishing a gender equality report in each legislative period became obligatory and provided in-depth analyses of gender inequalities, including in the labour market. The First Gender Equality Report of the German Government, released in 2011, covered a life-course perspective, showing how institutional settings influence decisions regarding education, vocational training, professional careers and career breaks for women and men differently, with long-range consequences for careers and income (BMFSFJ 2011). The Second Gender Equality Report, released in 2017, strongly recommended improved general conditions to ensure a fair division of paid and unpaid work between women and men (BMFSFJ 2017).[2] It also introduced a new index, the gender care gap, which is currently at 52.4 per cent, indicating that women spend much more time on unpaid work and care in private households than men (Klünder 2017). Simultaneously, women's hourly and life-course wages are significantly lower than men's, resulting in a massive gender pension gap, with women receiving, on average, only 53 per cent of men's average pensions (BMFSFJ 2020). All three gaps – the gender care gap, gender pay gap and gender pension gap – are due to major differences in women's and men's labour market participation and care work and result in an unequal distribution of societal opportunities.

In the following sections, we first review the broader (legislative) activities of early Merkel governments to map out the main actors in policy change and the effects of labour market laws. We then assess the three latest reforms, asking how they made it onto the political agenda and gained political and public attention. Finally, we discuss their potential implications for gender equality broadly.

GENDER EQUALITY AND WORK IN THE EARLY YEARS OF THE MERKEL ERA

When Angela Merkel became the first German woman chancellor and formed a Grand Coalition of the CDU/CSU and SPD, women's status in the labour market was significantly different from what it is today. In 2005, the women's employment rate was only 63.1 per cent, as compared to a men's employment rate of 75.6 per cent (Eurostat 2020a). Simultaneously, the unemployment rate was high, with women at 11.7 per cent and men at 12.8 per cent (Eurostat 2020b). In 2002, the previous SPD-Green coalition government justified a structural reform of social security schemes and labour market policies, the so-called Hartz Reforms, based on a high level of structural unemployment, a monetary deficit on the part of the Federal Employment Agency and the idea of introducing so-called activation measures, such as short-term (vocational) training to develop labour market skills, individual re-integration plans or subcontracted labour. The *Zweites Sozialgesetzbuch* (Second Social Security Code, SGB II) was fundamentally revised and increased pressure on unemployed workers to take on employment even if poorly paid (Bothfeld, Gronbach, and Seibel 2004). Moreover, the *Viertes Gesetz für Moderne Dienstleistungen am Arbeitsmarkt* (Fourth Law for Modern Labour Market Services) also substantially changed the German labour market and social security policies, with direct gender equality implications. For instance, the principle of spousal subsidiarity deprived numerous former recipients of unemployment assistance – and a disproportionately large number of women – of their independent entitlements, and the right to care was limited by activation measures (Jaehrling and Rudolph 2010; Betzelt 2008).

These labour market reforms remained an important policy issue for the first two years of the Grand Coalition and side-lined other labour market initiatives. Concurrently, EU pressure by way of the Lisbon (2000) and Barcelona targets (2003)[3] increased political and public interest in better reconciling family and work – particularly by expanding public childcare. In response, the Grand Coalition agreed on the Parental Allowance and Parental Leave Act (Bundeselterngeld- und Elternzeitgesetz (BEEG), 2007). Together with the Children's Support Act (Kinderförderungsgesetz, 2008), this signalled a paradigm shift from a male-breadwinner model toward promoting an adult-earner model. Both policies were to help parents (mothers) shorten their career breaks and avoid the family trap (*see* Auth and Peukert, forthcoming). Although the coalition partner SPD had proposed exactly such legislation in their 2005 electoral programme (SPD 2005), Merkel's Family Minister, Ursula von der Leyen (CDU), received credit for this major policy change.

The 2007 financial crisis and 2008 economic crisis shifted the focus: the German government provided guarantees for the banking sector, invested in shares, focused its financial support on the car industry and its suppliers and provided a stimulation programme for the construction sector. The male-dominated industrial sector also benefited from additional labour policy measures, such as the extension of short-time allowances from 12 to 18 months. Simultaneously, the qualifying conditions for short-time allowances were almost impossible to prove for female-dominated sectors, such as health services or retail trade; these sectors were indirectly excluded despite severe job losses. Overall, male employment sectors benefited directly and indirectly from the government stimulus programmes and related labour market policies; female employment sectors were disregarded (Annesley and Scheele 2011).

These early labour market reforms and crisis management negatively affected gender equality because they were implemented within a dominant male breadwinner model (Lewis 2001; Leitner 2013; Lang 2017). Despite the new legislation, childcare facilities in West Germany remained at low levels (particularly for those under age three) and – due to the economic crisis – were partly reduced in East Germany, thereby negatively impacting parental (read: maternal) employment. With Germany overcoming the economic crisis quickly and facing skill shortages in many industrial sectors, the lack of childcare facilities and mothers' difficulties in reconciling work and family attracted unexpected scrutiny. Employers' associations – many with close CDU/CSU ties – publicly supported increasing childcare facilities because not making use of the qualifications of mothers would be economically inefficient (Auth, Buchholz, and Janczyk 2010). This crucial positional change on the part of a core labour market actor effectively put the childcare-labour market nexus on the political agenda and shifted the CDU/CSU position. However, as labour market data and our analysis below illustrate, such changes to gendered labour market inequalities occur at a slow speed. While, before the birth of their first children, most women and men work full-time, the proportion of parents who both work full-time drops significantly afterwards: fathers work an average of 42 h per week, while mothers only 25 h per week (Kümmerling 2018; see also BMFSFJ 2011, 2017).

Overall, the early Merkel era displays mixed results regarding gender equality in the labour market. Gainful employment benefitting women and men has increased considerably since 2005, when it was at its lowest level since German unification (Statistisches Bundesamt 2020). The upward trend stopped during the economic and financial crises of 2009 but has recovered since 2010. Women's part-time work, however, increased more than their full-time work, with many working in so-called 'mini-jobs'[4] that are not subject to social security contributions, such as unemployment benefits. This contradictory development continues today, with women's employment rates being high, above the EU-27 average, but women are still predominantly in part-time positions and sectors with lower incomes and career opportunities. Tackling these persistent inequalities will require an overarching strategy to improve gender equality in employment. In the following section, we scrutinise how these new policy measures came about and whether they have the potential to positively affect gender equality in Germany's labour market.

NEW LABOUR MARKET LAWS AS GAME-CHANGERS FOR GENDER EQUALITY?

As illustrated above, Merkel's first three governments faced little political pressure to pursue additional labour market reforms: the implementation of the so-called Hartz-Reforms and their structural impact, constantly increasing employment rates and decreasing unemployment rates, and a growing demand for highly skilled labour provided a comfortable status quo. The stable and, overall, relaxed labour market – even during the economic crisis – was accompanied by supportive family policies (*see* Auth and Peukert, forthcoming). Despite the comfortable situation, Merkel's governments failed to address the remaining severe gender inequalities. Only toward the end of the third Merkel-led Grand Coalition, from 2013 to 2017, do we witness political activity regarding gender equality in the labour market, which we will examine using three case studies (see Table 1).

As Table 1 shows, all three laws were proposed by SPD-led ministries, and it was also the SPD that inserted these issues into the coalition agreements, often facing resistance from the CDU/CSU. Interestingly, the BMFSFJ – despite not being in charge of labour market or economic policies – proposed two of the laws, the Corporate Board Quota and the Pay Transparency Act. The Federal Ministry of Labour and Social Affairs (BMAS) only initiated the Temporary Part-Time Act.

An analysis of the ministries' websites explaining the laws reveals crucial differences in presenting the main purposes of the laws. The BMFSFJ explicitly refers to gender equality as the main target of both laws and, thereby, leaves potential intersectional aspects unmentioned: The Pay Transparency Act covers all discriminatory pay

Table 1.
Overview labour market cases.

	Equal Participation of Women and Men in Leadership Positions in the Private and Public Sectors Act ***(Gesetz für die gleichberechtigte Teilhabe von Frauen und Männern an Führungspositionen – FüPoG)***	**Pay Transparency Act (*Gesetz zur Förderung der Entgelttransparenz zwischen Frauen und Männern Entgelttransparenzgesetz - EntgTranspG)***	**Act on the Further Development of Part-Time Law – Introduction of temporary part-time** ***(Gesetz zur Weiterentwicklung des Teilzeitrechts - Einführung einer Brückenteilzeit)***
First public mobilisation	mid-1990s	1980s	2011
First legislative proposal by government	2000	2016	2018 (reform of 2011 Part-time and Fixed-term Work Act)
Basis for proposal	Coalition agreement 2013	Coalition agreement 2013	Coalition agreement 2013
Law adopted	1 May 2015	30 March 2017	12 December 2018
Law into force	1 January 2016	6 July 2017	1 January 2019
Lead ministry, minister and party affiliation	BMFSFJ, Manuela Schwesig, SPD	BMFSFJ, Manuela Schwesig, SPD	BMAS, Hubertus Heil, SPD
Stakeholders principally supporting the law	SPD, Green Party, Left Party, women's organisations	SPD, Green Party, Left Party, women's organisations, trade unions	SPD, women's organisations
Stakeholders principally opposing law	CDU/CSU, FDP, major employer associations	CDU/CSU, FDP, major employer associations	CDU/CSU, FDP, AfD, major employer associations
Stakeholders proposing a more far-reaching law	Left Party, Green Party, German Women Lawyers Association, National Council of German Women's Organisations	Left Party, Green Party, German Women Lawyers Association, National Council of German Women's Organisations	Left Party (Green Party)

practices and is not limited based on gender. Thus, the BMFSFJ's narrowing down the purpose of the laws to gender equality comes as a surprise, especially because it is also in charge of anti-discrimination policies. The BMAS, on the other hand, omits any reference to gender equality when presenting the Temporary Part-Time Act on its website; the description of the Act reads completely neutrally, despite the extensive gender care gap. Next, we analyse the adoption of the latest labour market reforms and their likely impact on gendered labour market inequalities.

Tackling Vertical Segregation? The Corporate Board Quota

After a long history of postponement and relying on soft law measures, the Equal Participation of Women and Men in Leadership Positions in the Private and Public Sectors Act came into force on 1 January 2016 (Ahrens and Scheele 2021). In 2000, then-Women's Minister Christine Bergmann (SPD) proposed, for the first time, a corporate board quota. Bergmann pursued an ambitious gender-equality agenda targeting structural labour-market-related inequalities, among them strong vertical labour market segregation. The CDU/CSU, FDP, and major employer associations fiercely opposed the law, and then-Chancellor Gerhard Schröder, who had strong ties to the corporate lobby and was (in)famous for labelling gender-equality policy '*Gedöns*' (useless hoo-ha), yielded to pressure. The draft law was replaced with an ineffective *Vereinbarung zur Förderung der Chancengleichheit von Frauen und Männern in der Privatwirtschaft* (Voluntary Agreement between the Federal Government and the Umbrella Organizations of the Private Economy on Promoting Equal Opportunities for Women and Men in the Private Economy) (Ahrens and Scheele 2021; Kohaut and Möller 2009). Only in 2015 was then-Women's Minister Manuela Schwesig (SPD) able to break the deadlock of Merkel's CDU, which – despite public and governmental debates – had shied away from legislating corporate quotas. The CDU's hardliners often dismissed quotas as too much state intervention (Henninger and von Wahl 2014, 2019; see also Ahrens and Lang, forthcoming).

The first Grand Coalition (2005–2009) opposed a corporate quota law, and during the CDU/CSU-FDP coalition (2009–2013), then-Family-Minister Kristina Schröder rejected such a law, upheld self-regulation instead and relabelled this approach as a 'flexi-quota' (Henninger and von Wahl 2014, 2019). In 2010, the Green Party proposed the 'Act on Gender-Equal Occupation of Supervisory Boards' – a symbolic action to highlight the government's inactivity. Surprisingly, then-Employment-Minister Ursula von der Leyen (CDU) reacted and suggested a 30 per cent board quota as a measure to improve corporate decision-making and limit a hazardous male corporate culture (Henninger and von Wahl 2014; on von der Leyen's role in modernising the German gender regime, *see* Mushaben, forthcoming). However, Chancellor Angela Merkel rejected the proposal under pressure from employers' associations (Ahrens and Scheele 2021). Various other SPD and Green proposals arrived toward the end of the legislative period but were turned down by a second Merkel government, one pressured by business interests and unsure of public support (Henninger and von Wahl 2014).

Finally, the 2013 Grand Coalition agreement stipulated a corporate board quota, especially because the SPD leadership feared that party members would otherwise reject the party's participation in the coalition (Waas 2014, 141), because public pressure had increased considerably (Ahrens and Scheele 2021). The draft bill resembled former Women's Minister Bergmann's proposal from 2000. Although the majority of male CDU/CSU MPs and employer associations mobilised against it, the Bundestag finally passed the law on 1 May 2015 (Ahrens and Scheele 2021). Angela Merkel, who had still argued against a legal quota for women on corporate and supervisory boards in 2011 (Die Zeit 2 February 2011), changed her position. Signalling support for the initiative of then-Women's-Minister Manuela Schwesig at a 'Women-in-Leadership' conference in 2014, Merkel herself announced the introduction of a binding quota for supervisory boards of listed companies and companies subject to co-determination (Merkel 2014).

The law set a 30 per cent quota for the underrepresented sex in supervisory boards of publicly traded companies with more than 2,000 employees (currently 105 companies). Companies are obliged to fulfil the quota successively when electing new board members. Violations are sanctioned with an 'empty seat' mechanism: board elections failing to meet the quota are invalid. Companies with more than 500 employees, which are either quoted on the stock exchange or subject to co-determination, must set (and publish) targets to increase the share of women in decision-making. Furthermore, the existing *Gesetz zur Gleichstellung von Frauen und Männern in der Bundesverwaltung und in den Gerichten des Bundes/Bundesgleichstellungsgesetz, BgleiG* (Federal Equality Act) and the *Bundesgremienbesetzungsgesetz* (Appointments to Federal Bodies Act) were considerably reformed to increase women's representation in federal public services leadership positions.[5] Since 1 January 2016, the government has been required to ensure a 30 per cent share and, from 2018, onwards a 50 per cent share; results are monitored and published as an annual Gender Equality Index.

Considering that the law only came into force in 2016, it unquestionably increased the number of women on supervisory boards and, moreover, fuelled a broader public and political debate on the underrepresentation of women in leadership positions. According to the German Institute for Economic Research (DIW), the law has mixed effects. The latest analysis shows only marginal spill-over effects on women's proportions on executive boards, in leadership positions in higher management below the board level, and in companies not directly subject to the quota (FidAR 2020; Kirsch and Wrohlich 2020). Simultaneously, the law considerably increased women's share on the supervisory boards of those 105 companies subject to the quota to 35.2 per cent in 2019, as compared to 21.3 per cent in 2015 (FidAR 2020, 3). However, in those companies not required to meet the quota, the share of women remained low: women's share on executive boards was only 11.5 per cent in 2019, as compared to 4.9 per cent in 2015 (FidAR 2020, 3), and their share of board chair positions was only 3.3 per cent in 2019 as opposed to 3.8 per cent in 2016 (Kirsch and Wrohlich 2020, 35). A similar mixed effect occurred for the 200 highest-performing companies in Germany and the Top-100 companies (Kirsch and Wrohlich 2020, 33–34). Overall, the law positively affected the composition of supervisory boards covered by the strict quota but had far less impact on companies that were to set targets for themselves (FidAr 2020; Holst and Wrohlich 2019; Kirsch and Wrohlich 2020).

The legally binding data collection and evaluation revealed the stagnation of and a lack of spill-over on the part of the supervisory board quota for executive boards and resulted in a landmark decision during Merkel's last term. Changing her position, Merkel argued, in a Bundestag debate, that publicly traded companies without a single woman on their executive boards are 'a situation that one can't find reasonable' (*Süddeutsche Zeitung* 6 July 2020). Merkel publicly backed SPD ministers Franziska Giffey (BMFSFJ) and Christine Lambrecht (Ministry of Justice and Consumer Protection) and opposed her party's powerful *CDU-Wirtschaftsrat* (CDU Economic Council). The position change occurred slowly but steadily over the four terms, with Merkel employing various arguments, such as good quota examples in other countries, the need to ensure fair competition and the need to respond to business demands for highly skilled workers (Merkel 2014), but repeatedly emphasising that parity is her ultimate goal (Merkel 2014, 2017, 2019, 2021). Why Merkel changed her mind is difficult to assess because it is impossible to identify a critical juncture, as occurred with the nuclear phase-out after the Fukushima disaster.

In summer 2021, Merkel's cabinet adopted a law requiring at least one woman on the boards of listed companies, as well as companies with equal codetermination and more than three members. Moreover, when the law comes into force, companies must justify setting a 'zero-per-cent-target' – a type of malpractice on the part of many companies exempted from the strict quota (Ahrens and Scheele 2021). The law sanctions violations with a two-tiered 'name-and-shame or fine' approach, which requires companies to publicly justify gender imbalances or be fined. Despite limiting dodging options, the executive board quota is not as far-reaching as the supervisory board quota: (1) it only applies to about 74 companies, and 40 already meet the quota (thus potentially leading to only 30 more women on executive boards); (2) women's share depends on the board size due to the stipulated minimum threshold (larger boards with seven members require just one woman) and (3) a grace period may further delay implementation (Kirsch and Wrohlich 2021).

Unquestionably, Germany's supervisory and executive board quotas lower the gender gap in top-level leadership positions in private companies. Merkel, who blocked such proposals during her two first terms, moved from indirectly facilitating SPD-led proposals in her third term to actively supporting them in her final term, even against powerful internal party opponents. Whether the law can sustainably dismantle structural labour market inequalities is uncertain: it improves the descriptive representation of a small female elite in management positions and helps to tackle vertical segregation but leaves broader business and organisational structures unaddressed. Gender inequalities regarding working times, income and professional career development remain untouched. However, as Hansch, Haag, and Rode (2016, 15–20) positively note, the quota initiated public discussions of 'what makes a good supervisory board member', increased visibility for diversity issues and reduced gender-stereotyped job advertisements.

Tackling the Gender Pay Gap? The Pay Transparency Act

Germany's gender pay gap is one of the highest among European countries, ranking 26th (above only Estonia) among the 27 EU member states (Eurostat 2020c). The gender pay gap has remained stable at 21–23 per cent since unification[6] and decreased only in 2020, to 18 per cent (Statistisches Bundesamt 2021). Additionally, domestic historical factors explain differences between East and West Germany, with the former having a gap of only 8 per cent and the latter having a gap of 23 per cent (BMFSFJ 2020).

Nevertheless, the first two Merkel governments were silent on the topic and only the opposition acted. The Greens proposed an Equal Pay resolution in 2008 accompanying Germany's first Equal Pay Day event on April 15; in 2012, the SPD and, in 2013, the Greens submitted draft laws, which did not pass the CDU/CSU-FDP governmental majority. For the third Merkel term, we again credit the SPD for remaining true to their electoral programme, forcing pay transparency through *legislative measures* into the coalition agreement (SPD 2013). The CDU only planned to *examine* introducing transparency obligations (CDU 2013). Additional pressure arrived with EU Recommendation 2014/124/EU on strengthening the principle of equal pay between men and women and the Equal Pay Day events receiving more public attention than they had previously.

The women's ministry quickly began drafting the Equal Pay Act, but according to Minister Manuela Schwesig (SPD), the process was continually blocked by CDU/CSU interventions originating directly from the Chancellery (*Reuters* 1 May 2016). Even when approaching the final vote, the economic wing of the CDU proclaimed, 'The Equal Pay Act belongs in the dustbin' (*Die Welt* 3 March 2017). Then, only a month later, Merkel signalled her clear support during a meeting with the CDU/CSU caucus's women's group, and the entire CDU/CSU followed suit (Merkel 2017). After several draft bills and intense political and public debate, Merkel passively facilitated the passing of the *Gesetz zur Förderung der Transparenz von Entgeltstrukturen* (Pay Transparency Act) on 30 March 2017 (into force 6 July 2017). Merkel rarely explained her change of mind, but after the law's adoption, she articulated her strong commitment to justice, fairness and equal opportunities in the labour market at certain events (Merkel 2018, 2019). Likewise, during one of her last press conferences, she admitted that she had realised over time that 'very little would work on its own and repeatedly measures became necessary that, in the beginning, I thought would also work with a voluntary commitment' (Merkel 2021).

The core points of the Pay Transparency Act are as follows: (1) workers in companies with more than 200 employees are entitled to an individual right to wage comparison information; this affects more than 14 million employees, or one-third of the workforce. (2) In companies bound by collective bargaining agreements, works councils administer the legal entitlement; in companies without works councils (the majority), employees must ask the employer directly to provide the information. (3) Companies with more than 500 employees are required to undergo an evaluation procedure, which must be carried out at least every five years. Incorporated companies with more than 500 employees must regularly report on equal opportunity measures and equal pay.

The company size rules limit potential gender equality effects. In 2017, women constituted about 54 per cent of the workforce in small-and-medium-sized companies (SMEs). In the smallest companies (up to five employees), their share is 59 per cent (Abel-Koch 2019). At a total of about 2.6 million, SMEs (with less than 250 employees) make up 99.4 per cent of all German companies (Statistisches Bundesamt 2020); they are exempted from the requirement to offer wage comparison information. Women are overrepresented in companies without a works council and, thus must initiate most claims themselves; they are also underrepresented in companies that fall under the stricter parts of the law.

The Pay Transparency Act harbours additional problems. The law does not oblige companies to scrutinise their pay scales for discriminatory practices. Instead, employees must individually defend their ‘individual right’ in court because the law precludes the right of association, for instance, through legal representation by trade unions. For claimants with low incomes, including many women, this may become a financial and psychological hurdle (*Süddeutsche Zeitung* 9 December 2016). Likewise, because an employee’s request for pay transparency is only addressed if there is a comparable group of six employees, those in SMEs and those who work in highly individualised and differentiated employment structures may not have access to transparency. Follow-up on the identified pay differences remains equally unclear, with the law lacking clear legal consequences. Individuals must initiate their lawsuits, and whether employees are willing to take this risk remains to be scrutinised further. Finally, company reports on gender equality and pay structures are not published, potentially stifling public debate on companies’ equal pay policies. The prominent case of an independent woman journalist whose lawsuit against the public broadcaster ZDF took about five years and reached the Federal Labour Court before she won illustrates many of these difficulties (*Süddeutsche Zeitung* 25 June 2020).

On the positive side, the law is evaluated regularly, and the government reports the evaluation results every four years, thereby offering discursive power to actors who want to take equal pay issues further. According to the first evaluation published in 2019, which ironically did not disaggregate its analysis by gender, found that four per cent of employees surveyed in companies with more than 200 employees used their individual right to wage comparison information (BMFSFJ 2019). After the law took effect, 45 per cent of the surveyed companies with more than 500 employees and 43 per cent of companies with 201–500 employees voluntarily reviewed their company pay structures. Neither the ministry nor the Federal Antidiscrimination Agency, however, issued standardised guidelines for carrying out the evaluation. According to the evaluation, 44 per cent of the companies required to submit reports claimed compliance with the Pay Transparency Act, and 40 per cent plan to follow suit (BMFSFJ 2019).

Given the broader labour market structure and the first evaluation, the Pay Transparency Act is a ‘suboptimal practice’ intended to increase gender equality. However, its introduction has initiated a broader public and political debate on the gender pay gap, which may have positive effects in the long run. Furthermore, the law can be interpreted in the context of the statutory minimum wage (into force 1 January 2015), which positively impacted women’s incomes. Since 2009, the SPD has steadily promoted a statutory minimum wage, while the CDU/CSU has continuously opposed it. However, when public opinion polls showed strong support in 2011, Merkel and then-Labour-Minister von der Leyen joined the *Christlich-Demokratische Arbeitnehmerschaft* (Christian Democratic Workers Association) in reframing minimum wages within the CDU-friendly term ‘lower wage limit’ (Lohnuntergrenze), ensuring a living for (male breadwinner) families (*Die Welt* 30 October 2011). Once more, this proved a successful election campaign strategy for the CDU ahead of the 2013 elections and – in the long run – paved the way for the Pay Transparency Act.

The first minimum wage was set at an hourly rate of 8.50 EUR; it increased gradually to 9.60 EUR as of 1 July 2021. The impact of the minimum wage on the gender pay gap and women's overall income situation still requires assessment. However, Bosch (2018) showed a positive impact on women's income, calculating a 2.4 per cent reduction of the gender pay gap. Furthermore, a 2019 government report indicated a positive impact on income prospects for workers in low-wage sectors and precarious work, which include high shares of women, employees in Eastern Länder (Bundesregierung 2019) and, likely, many immigrants, given the migration wage gap (Ingwersen and Thomsen 2019; *see* also Street, forthcoming). Some deficits remain regarding the Pay Transparency Act. Minimum wage controls are infrequent, and some employers find loopholes, for instance, by extending unpaid working times or re-labelling work tasks as a private matter (e.g. excluding parcel drivers' car loading time). Furthermore, many 'female jobs' in private households (caring, cleaning and cooking) sidestep minimum wage legislation.

On the other hand, minimum wage legislation helped German trade unions regain public stature and influence. Compensating for their low bargaining power in some low-wage sectors, they launched a broader campaign regarding the working poor and the growing low-wage sector. After defending collective bargaining autonomy for years, they now supported a general statutory minimum wage, particularly for non-unionised service jobs. However, this did not lead to potential spill-over effects and trade union support for the Pay Transparency Act.

Tackling the Female Part-Time Trap? The Temporary Part-Time Act

On 1 January 2019, the *Gesetz zur Weiterentwicklung des Teilzeitrechts – Einführung einer Brückenteilzeit* (Temporary Part-time Act) came into force. A pre-existing Part-time and Fixed-term Work Act (adopted 2000) had entitled employees working in companies with a minimum of 15 employees to reduce their working time without any legal entitlement to return to full-time. The Temporary Part-time Act targeted this loophole.

Much like the laws discussed above, the destiny of the Temporary Part-time Act depended on SPD persistence. Originally agreed upon by the 2013 Grand Coalition, it was only adopted at the beginning of the fourth Merkel government. The law was originally drafted by then-Labour-Minister Andrea Nahles (SPD) in 2016, but due to strong resistance from the CDU/CSU and employers' associations, Chancellor Merkel blocked the proposal toward the end of her third term (*FAZ online* 23 May 2017). Hubertus Heil (SPD), who replaced Andrea Nahles in the Ministry for Labour and Social Affairs in 2018, was able to draw on the new 2017 coalition agreement, preventing CDU/CSU opposition; he revived the proposal and quickly forged the adopted compromise.

The law, which applies to companies with more than 45 employees, allows employees to reduce their hours of employment for an agreed period (1–5 years) and resume the original working time afterwards. For employers with 46–200 employees, only one of each 15 employees can use this temporary part-time work. Additionally, the law offers better opportunities for part-time employees to work more hours. If a part-time worker wants to extend his or her working time, the burden of proof is on the employer to deny the request. Furthermore, part-time employees should be given preference when filling a new job.

The law aims at counteracting the so-called 'part-time trap': mainly women face difficulties returning to full-time when pausing for parental leave and intensive periods of (child)care. Although the new law suitably supplements the 2000 part-time law, the SPD draft was watered down regarding the number of companies subject to the strict rules so as to serve the interests of the CDU/CSU. Two-thirds of mothers (presumably the major target group) work part-time in enterprises with less than 50 employees, thus falling below the threshold. Likewise, if only one in every 15 employees in larger companies is granted temporary part-time work, employees will likely compete for this scarce resource. Finally, part-timers who reduced their working times before the law are automatically excluded, which negatively impacts the opportunities of mothers who already work part-time (*see* Auth and Peukert, forthcoming). Whether a positive gender impact occurs will only be known after the first formal evaluation in 2024; early analyses are sceptical (*Spiegel online* 16 November 2019).

CONCLUSION

Despite longstanding and severe inequalities, gender equality in the labour market has only slowly gained a foothold on the political agenda over the course of Merkel's four chancellorships. Unquestionably, legislative changes in welfare and labour market policies, such as the three cases we investigated – gender quota for corporate boards, pay transparency and temporary part-time – address important gender equality issues and point to an emergent adult worker model[7] across Germany. While Merkel endorsed and promoted this adult worker model, she initially turned a blind eye to its gendered implications. Instead, coalition politics became a key factor, with the SPD pushing structural problems, such as the gender pay gap, the gender care gap and the gender pension gap, onto the political agenda. All these issues would have required a more comprehensive and integrated approach to tackling the crucial intersections of the labour market, family, reconciliation and tax policies.

According to a news commentator reflecting on 15 years of Merkel's chancellorship in 2020, Merkel had a rather ambivalent attitude toward women's policy at the beginning of her governing period (*Tagesschau* 22 November 2020). She positioned herself against a gender quota in business or politics and against reforming the part-time act to improve women's opportunities to return to employment after a care-break. She also strongly supported introducing a parental care allowance (criticised as 'Herdprämie', a bonus to remain at the stove; ruled unconstitutional in 2015) while simultaneously promoting the expansion of public childcare facilities (*Westfälische Nachrichten* 25 April 2012).

Merkel also regularly invited women in leadership positions to the chancellery to discuss crucial factors regarding women's employment, such as gender stereotypes, women in management positions, the gender pay gap or the part-time trap (Merkel 2016). The strong support for her 2005 election campaign by conservative feminists and business and church women's groups intensified the exchange (*ZEITmagazin* Nr. 32/2021) and potentially influenced her change of mind. Additionally, her exceptional personal experience in politics and as first woman chancellor in Germany arguably influenced her perceptions of women and men's unequal opportunities (see also

Mushaben, forthcoming). Finally, in 2019, she stated in an interview that ‘Parity appears logical to me’, endorsing comprehensive gender equality (Merkel 2019). As our analysis highlighted, when changing her position, Merkel often only reacted to SPD-initiated proposals on tackling gendered labour market inequalities, thereby passively facilitating change, with the CDU/CSU following suit and agreeing – although grudgingly at times – to new legislation.

Even after these important policy changes, however, the core remnants of the German conservative welfare model have yet to be addressed after the Merkel era, particularly with wage structures being determined by social corporatism, a tax system that upholds couples’ tax splitting and a lack of public childcare facilities. Subsequently, care and chores remain mainly women’s duties, reinforcing part-time work as women’s domain and a continuing unequal distribution of paid and unpaid work, with both hindering gender equality in the labour market.

Regarding actors, all proposals were characterised by a divided Grand Coalition, in which the larger coalition partner, CDU/CSU, aligned itself with powerful business stakeholders and the smaller coalition partner, SPD, had more dispersed interests in the form of various women’s organisations and, to some extent, trade unions. Despite Grand Coalitions requiring more consensus-seeking than coalitions with one large and one small coalition partner (see Mushaben, forthcoming), the divisions and various powers led, every single time, to considerably watering down the first SPD draft to the advantage of business interests in the law ultimately adopted. Moreover, without Angela Merkel changing her position publicly, it is questionable whether the proposals would have had a chance to survive. One potential factor requiring additional scrutiny is the question of why, after all, it is most often the Women’s and not the Labour Ministry or the Ministry for Economy who proposed the laws.

Regarding their scope and impact, all three laws, while signalling progress for gender equality in the German labour market, were weakened under CDU/CSU pressure. None of the three laws fully cover the target groups; all leave loopholes for businesses to use to undercut the laws’ impact on gender equality. Introducing the gender quota for corporate supervisory boards focused on making better use of the potential of highly qualified women and improving the competitiveness of Germany’s largest companies in the global market, instead of consistently tackling vertical segregation (Müller 2019); the new quota for executive boards may fall into the same category. The Pay Transparency Act, despite acknowledging the persistence of the gender pay gap, pays insufficient attention to institutional inequalities such as androcentric pay structures that benefit male-dominated occupations and positions and typical male careers. Moreover, the act could have been more impactful by utilising social corporatism to include binding mechanisms with which to evaluate occupational classifications in collective agreements or commit employers, works councils and trade unions to evaluate existing agreements during collective bargaining rounds. As the act stands now, it certainly meets EU requirements at a formal level and holds individuals responsible for asking for wage comparison information. However, it is rather unlikely employees in precarious working arrangements will pursue their rights when they fear job losses in the long run after challenging their employers. The third case, the Temporary Part-time Act, while surely addressing the weak link of the previous right-to-part-time act, may not fully reach its potential, due to its limitation to medium-sized and large companies, which have fewer women among their workforce, and excluding existing part-timers, among them a large share of women. Finally, early evaluations in all three cases reveal that, although companies meet the minimum requirements, they seldom go beyond these and proactively promote gender equality in the workplace.

Pressured by left-leaning parties, Merkel progressed through her four chancellorships from blocking proposals to actively facilitating them, thereby helping to introduce new standards. Still, Merkel will not be remembered as a feminist chancellor or a chancellor who supported women and gender equality in a sustainable way but one who seized chance opportunities to improve equal opportunities, though often in a delayed fashion. What the future will bring is difficult to imagine. Particularly, the impact of COVID-19 on the labour market and gender equality is highly unpredictable. Will gender equality goals be cast aside as 'luxury' issues in light of rising unemployment? Will the broader spread of home-office work remain and potentially change work-life-balance issues and how paid and unpaid work is distributed? In any case, the successor party leader Armin Laschet is unlikely to put forward innovative proposals given the CDU's overall inactivity regarding and even resistance to gender equality policies in the labour market.

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NOTES

1. The name and structure of the ministry changed over time. Until 1985, it was the Federal Ministry for Family Affairs. In 1991, it was divided into the Ministry for Family Affairs and Senior Citizens (Minister Hannelore Rönsch, CDU) and the Ministry for Women and Youth (Minister Angela Merkel, CDU). Then, these were reunited in 1994 under the current name. See https://www.bmfsfj.de/bmfsfj/ministerium/geschichte.
2. The Third Gender Equality Report was released in summer 2021 and focuses on digitalisation.
3. The Lisbon Strategy set, among other goals, a target of a 60 per cent women's employment rate by 2010. The Barcelona targets set the goal of making high-quality and affordable childcare facilities available for 90 per cent of children from age three until mandatory school age, as well as 33 per cent of children under three.
4. Monthly maximum income of 450 EUR.
5. The laws use the term 'underrepresented sex', not women.
6. Except in 1999, with 19 per cent (Eurostat 2020c).
7. See Daly (2011) for a broader discussion of the adult worker model.

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