

## ABSTRACTS

**Jutta ALLMENDINGER**

### **Changing Work and Life Style Patterns and Economic Inequality between Male and Female Elderly in Germany**

Before beginning my paper, I will present a short movie (11') that I produced and which gives a basic overview of how life course and social policy systematically interact in Germany. While this movie is based on cohorts born between 1919 and 1921, I will also include changes that have occurred since then, focusing on labor force participation, vertical and horizontal occupational sex segregation, and pension legislation. How do these changes affect economic inequality in old age for cohorts soon to reach retirement age? In my answer to this question, I will rely on longitudinal data from the Max-Planck-Institute for Education and Human Development in Berlin and the AVID, a data set that covers cohorts born between 1936 and 1955, and which allows estimates for their future pension income. In analyzing these data, I will give special attention to the role of children, marriage, and differences between former West and East Germany. I will finish with a brief discussion on how present reform plans in the German pension system will affect the lives of future elderly.

**SODEI Takako**

### **Gender Gap of the Financial Status in Old Age: Why are Older Women so Poor?**

Everywhere in the world, the core of the poor is elderly women living alone. Why is this the case? First, housework, childcare and the care of elderly are mostly in the hands of women; these tasks are unpaid work and their monetary values are not considered. Second, in many countries, women have to stop working because of their family, thus their old age pension is low and they are hardly in the position to gather own assets. Third, because of a gender gap within the workplace, women's jobs are generally insecure with lower pay.

Such a gender gap is much more prominent in Japan because of gender role ideology based on the traditional patriarchal family system. In spite of an increase in the number of married women in the labor force, the gender role ideology of "men at work and women at home" remains very much alive. The wage system as well as the social security system are still based on the stereotype image of "husband as head of household and wife as his dependent."

Recently, however, such systems have been widely criticized. There are disputes over whether the unit of the social security system should change from household to individual, and whether both the spouse exemption and the special spouse exemption of income tax should be abolished.

In my paper I will discuss the present state of the gender gap, its underlying reasons as well as possible future changes.

**YAMADA Atsuhiko**

### **Trends in Income Inequality Among Retirement Age Population in Japan – From the Viewpoint of International Comparison**

Recent articles suggest that the trend of an increasing inequality of income in Japan can be explained by the aging population. However, its concrete relationship is not self-explanatory. The aim of this paper is to answer the various questions about the factors of income inequality of the retirement-age population in Japan, based on the most comprehensive data of nine OECD countries. The data are nationally comparative and also consistent in time series. Japanese data have been included for the first time. Recently developed techniques were employed to examine the complicated interaction between the trend of income inequality among the retirement-age population and evolving retirement income package, or household formation.

The international comparison succeeded in characterizing the trend of income equality among the retirement-age population in Japan. First, the income inequality of the retirement-age population is larger than that of the working-age population. The main contributor to the income inequality of the retirement-age population is the relevant importance of their working income, and indeed, the rate of labor force participation of older people in Japan is quite high. Second, even among the low-income group of the retirement-age population, the ratio of working income to disposable income is the highest among the nine countries, coinciding with the importance of social transfer which is relatively low. Nevertheless, the importance of a working income in Japan has rapidly decreased in the last decade, and social benefits have increased in importance, especially in the middle-income group. As a consequence, over the last decade, a large part of resources for social benefits is shifting to the middle-income group. Third, the income inequality of the retirement-age population has decreased. This is because of the effect of a diminishing income difference in each household type (which is defined by household size and the number of earners and between each household type) exceeds the effect of changing proportion of each household type.

**Ute KLAMMER**

### **Welfare State Reform in Germany and the Shifting Principles of Redistributive Justice. Is the Pension Reform Symptomatic?**

Within the recent pension reform in Germany there is an obvious shift of the underlying principles of redistributive justice: By cutting down the public pay-as-you-

go system and partially replacing it with a new capital-funded private pension system, the redistributive elements of social security were reduced. At the same time, however, the ideas of equivalence (between contributions and benefits) and individual responsibility gained in importance. Nonetheless, other elements of the reform, such as more redistributive elements in favor of mothers with incomplete working biographies and a better minimum protection of poor elderly, point toward opposing ideas of social justice.

The paper tries to illuminate the different normative principles and to answer the question of whether a consistent “new logic” can be identified behind the reform. By analyzing the actual economic inequality among elderly and by examining the predicted future developments of inequality resulting from changes in work, life style and family patterns, the question is raised whether the principles behind the reform match these new challenges for protection in old age. Finally, the paper tries to analyze whether the aims and principles of the German pension reform are in line with: a) reforms in other areas of the German welfare state (esp. active labor market policy, social assistance reform and family policy); and b) the main principles of other recent European pension reforms.

**TAKAYAMA Noriyuki**

### **Pensions in Japan: Searching for a New Paradigm**

Japan already has the oldest population in the world. The 2002 update of population projections makes the future look even more bleak. By 2025, the required contribution rate for the principal program of social security pensions will be 1.8 times higher than the current level (17.35 percentage point) if current legislated benefits are to be maintained. Since social security contributions for pensions have become the No. 1 income source for central government, further increases are certain to have an even greater negative effect on the Japanese economy, while younger generations will be more inclined to regard their participation in the social security pension system with greater skepticism with respect to future returns. Moreover, employers are seriously considering how to avoid social security pension contributions.

Growing concerns are now observed in Japan with regard to the “taste of pie” rather than the “size of pie”. The basic design of the pension program should be incentive-compatible. Contributions should be much more directly linked with old-age pension benefits, while elements of social adequacy should be incorporated in a separate tier of pension benefits and financed by other sources, including a consumption-based tax.

Shifting to a new regime as mentioned above will cause considerable reductions in social security pension benefits in the future. Current older generations still enjoy very generous pension benefits at the cost of their children and/or grandchildren (i.e., actively working generations) who are currently suffering from reductions in their nominal amount of salaries/bonuses as well as from increased unemployment. Next

year, the current account for the principal social security pension scheme in Japan will turn into a deficit, making structural reform inevitable.

The majority of people in Japan are quite reluctant to accept further increases in taxes and/or social security contributions. Under such circumstances, people are to be further encouraged to establish self-reliance after retirement. A new defined-contribution plan was established last year, and from April 2002, hybrid plans, similar to the U.S. cash balance plans, were initiated. With stronger tax incentives, private initiatives will increase in due course. The future picture on distribution of old-age income in Japan may be quite different.

**Ulrich F. BRÖMMLING**

### **The Non-Profit-Sector in Germany**

For many decades, the social and economic importance of the non-profit-sector in Germany was underestimated by politicians, citizens, and the general public. However, in recent years discussions about the activities and capabilities of the non-profit-sector have intensified. The activities of non-profit-sector organizations are no longer seen just as “stop gaps” for tasks and functions that the state is no longer able to fulfill because of tighter public budgets. At the same time, associations, societies, foundations, and initiatives are an important factor of the liberal-democratic system of the German state. They indicate that citizens are making their stakes in community and the commonwealth – over and above their tax liability. There are about 540,000 associations and 11,000 foundations in Germany. More than half the population in Germany are volunteers, but there remains an even greater potential for voluntary engagement.

My paper will deal with the question of the non-profit-sector’s social and economic importance. In this context, the terms “non-profit-sector”, “third sector”, “private sector”, which are often used wrongly, will be defined. I will then exemplify the societal role of various kinds of foundations and place the whole sector in an international comparative perspective. By analyzing the various problems of the non-profit sector in Germany, I will finally highlight possible risks and opportunities for future progress.

**ADACHI Kiyoshi**

### **The Growth and Expansion of Non-Profit Organizations Under the Long-Term Care Insurance System**

As the system of social welfare in Japan is a state responsibility, the activities of private non-profit organizations have been limited. Nevertheless, with the shift of welfare needs to regional and home-care levels, fundamental structural reform has

taken place. Since the late 1980s, welfare institutions involving ordinary citizens have spread throughout the country, for example, volunteer groups helping elderly people living alone with various domestic tasks. Most of these organizations have acquired the status of a juridical person under the “Law to Promote Specified Non-Profit Activities (NPO-Law)” and are now working to develop and expand within the framework of the public long-term care insurance system. Welfare NPOs play a substantial role in the reform of the system through diversification, decentralization, and privatization of bodies providing such assistance. Moreover, they continue to have an impact on social welfare and social security in various ways, for example, through their competitive influence on already existing welfare organizations, or by offering their services to users and by developing and experimenting with innovative approaches in response to the new regional needs.

In 2001, we conducted a national survey of welfare NPOs involved in nursing care insurance, dividing them into six categories according to criteria such as historical development, organization, scale of operations, nursing-care insurance services, and participation of volunteers outside the system, and abstracting a model for developing NPOs, initially offering only visitor health care, followed by facilities and bases, and eventually comprehensive operations, including minor long-term care facilities. NPOs demonstrate various developments within the system of long-term care insurance, thereby learning how to offer not only those services they already provide but also services that respond to welfare needs including transportation, meals, and help before and after regular schedules. NPOs continue to influence regional communities and government. The private non-profit sector has not only grown on the basis of the new long-term care insurance system, but it has also changed the Japanese welfare system. This report analyzes the current situation based on the above survey and provides further comments on issues for the future.

**Gebhard HIELSCHER**

### **The Role of Political Foundations in Germany**

The Friedrich Ebert Stiftung (FES) was originally established in 1925 following the death of Friedrich Ebert, the first President of the Weimar Republic, and Chair of the Social Democratic Party of Germany (SPD). Outlawed by the Nazis in 1933, the FES was reactivated in 1947 and later chose Bonn, the capital of West Germany, as its headquarters. After the re-unification of Germany, the FES established a second head office in Berlin, located on Hiroshimastrasse near the Embassy of Japan.

The FES is one of five major political foundations based in Germany and operating both within the country and abroad. The other four are the Konrad Adenauer Stiftung, linked to the Christian Democratic Union (CDU) and named after the first chancellor of the “old” Federal Republic of Germany; the Hanns Seidel Stiftung, affiliated with the Christian Social Union (CSU), the Bavarian sister party of the CDU; the Friedrich Naumann Stiftung associated with the Free Democratic Party (FDP); and the Heinrich

Böll Stiftung established by the federal party Alliance 90/The Greens and bearing the name of a Nobel Laureate for Literature.

While the five foundations do compete politically, they nevertheless agreed on a joint statement defining their objectives, purpose, and values. This common basis may even lead to practical cooperation, for instance, when the Chairman of the Naumann Stiftung and former Minister of Economics, Otto Graf Lambsdorff, accepted an invitation by the FES to be one of the main speakers at a recent forum in Tôkyô about compensation for forced labor during World War II.

**Yves JORENS**

### **Corporate and Personal Pension Reform in Germany: A Legal Perspective**

Confronted with demographic developments, high rates of unemployment and consequent financial problems, the German pension system has undergone several changes (“reforms”) over the past ten years.

The last reform, also referred to as the “Riester Rente”, has two objectives: First, to avoid a permanent increase in contribution rates, and second, the introduction of a three-pillar pension system to Germany. In order to achieve these objectives the German pension reform is based on reducing statutory benefits, which are in turn compensated by the introduction of improvements to corporate pension schemes and by the implementation of capital-based personal pension schemes. The corporate pension systems were improved and made more attractive through four major changes (individual claims for employees, introduction of a new type of pension fund, improvements to the requirements for the acquisition of pension rights, and measures to facilitate changes of employers).

The introduction of voluntary personal pension schemes as a third-pillar system was a completely new development. Subsidies or tax reductions are granted by the state to motivate people to join this system. Different rules were introduced for regulating this third pillar which has the disadvantage of not being considered attractive enough for the market.

The Riester Rente is, however, only accessible for people who are insured with the statutory pension system and are liable to taxation in Germany. This is problematic for migrant workers and does not conform with some international obligations.

**MORITO Hideyuki**

### **Reconsidering Japanese Corporate and Personal Pensions: From a Legal Point of View**

In 2001, with the formation of the “Defined Benefit Company Pension Law” and the “Defined Contribution Company Pension Law”, Japanese corporate pensions literally

entered into a new era. This report examines the new system brought about by the two legislative acts, along with law and government policy concerning other corporate and individual pension plans.

First, definitions will be offered concerning the two categories, corporate pension and individual pension, as these pertain to Japan. Particular attention must be given here to the fact that Japanese corporate pensions presuppose, as part of the Japanese employment tradition, the one-off retirement payment system and continue to be deeply affected by it. Thus, social security pensions and defined benefit company pensions are not to be seen as exemplifying corporate pension systems, but should rather be examined in the context of lump-sum retirement payments whose funding is not secured by outside sources.

Second, the history and background of the 2001 reforms will be presented, along with an outline of two new laws. These two laws are sometimes mentioned in the same breath; in fact, however, there are major and fundamental conceptual differences between them. For example, although defined benefit company pensions do not impose a limit on rewards for distinguished service, a characteristic of traditional Japanese companies, defined contribution pensions are strongly imbued with the notion of delayed wages for the retirement period, i.e., a means for guaranteed income throughout the remaining years of a person's life.

Third, corporate and individual pensions are examined from the standpoint of legal argumentation. Concretely, this means treating vesting, employment change portability, the rectification of unprofitability, so-called trustee responsibility, and the guarantee of payment in the event of corporate bankruptcy.

Finally, I will give a summary of future issues to be considered in the light of the law.

**Peter WINTERSTEIN**

## **Principles of Legal Policy and the Development of Legal Guardianship in Germany**

In 1992, a basic reform of the German legal guardianship law for adults ("Betreuungsgesetz") was enacted. The guiding principles of this law were the creation of a new legal institute for more flexible and individual support of persons in need of care, the abolishment of restrictions of the legal capacity of the supported person, the extension of the courts' control in the sphere of support in personal issues, including complicated medical care, the improvement of the situation of supporters and the creation of a singular, flexible law of procedure at the high constitutional level.

However, due to difficulties with the realization of the law by the local courts and because of increasing costs, the law had to be revised in January 1999 and the fee system for professional supporters was totally renewed. Today, a commission of experts from the ministries of justice at the federal and state level are discussing once again reform options because of problems of quality and increasing costs.

In the first part of my paper I will give an account of what the legal guardianship system in Germany aims to achieve and highlight the numerous problems which have occurred since this legal institute was first introduced. I will then give an overview of the current reform debate within the expert's commission and discuss the possible future direction of reform.

**ARAI Makoto**

### **The Adult Guardianship Law and the Long-Term Care Insurance Law in the Context of New Social Welfare**

In April 2000, Japan enacted adult guardianship legislation, necessitated by our aging society and the increasing ineffectiveness of the old system. This report points out the problems of the previous law; discusses the principles behind the new law, such as normalization, respect for the right of individual decision-making, full attention to livelihood protection; and looks into how the law has been implemented since its passage. Comparisons will further be drawn with the German *Betreuungsgesetz* [guardianship law], enacted in 1991.

Another law enacted in April 2000 concerns long-term care insurance. Its goal is, besides a shift from government-imposed measures to a contractual arrangement, the establishment of a new long-term care system. In addition to being contractual, it will allow for the use of insurance when senility has robbed the very elderly of the capacity of discernment. Thus, long-term care insurance and adult guardianship are said to be two integral components; in reality, however, the link is quite tenuous. This report will examine the reasons for this and make a comparison with the German *Pflegeversicherungsgesetz* [care insurance law], implemented in April 1995.

**KATSUKATA Keiko**

### **Legal Issues Relating to Age and Gender in Modern Japan – The Fourth Wave of the “Housewife Debate” since the 1990s and Issues of Legal Revisions**

As population trend surveys make clear, the second population shift that took place in Japan was extremely short in comparison with that in Europe and America; significantly, it ended a mere 25 years after the end of the war. The main breadwinners in this demographic change were generated by the so-called baby-boom and junior baby-boom generations. They are said to have simultaneously encouraged both the foundation and the collapse of the Japanese industrial and family structures that supported it (the trend towards the nuclear family, the full-time housewife, the system of third-category health-insurance beneficiaries, and the M-curve for women's employment).

In this connection, three waves of the “housewife debate” coincide precisely with this period. In these controversies, we can see mirrored the postwar history of a “Japanese-style” tug-of-war to modernize women in the direction either of “home-makers” or of “workers” – or, in other words, the ability to choose on the part of women, the domestic mainstay of the Japanese family, to adapt themselves gradually to the contemporary world, becoming both individualized and socialized.

In 1985, Japan ratified the “Convention on Elimination of all Forms of Discrimination Against Women”, thereby initiating a reevaluation of all domestic laws from a gender perspective. As a result, the “Nationality Law” was amended to allow the children of Japanese mothers and foreign fathers to obtain Japanese citizenship; then came the “Equal Opportunity Law”, legislation allowing for infant-care work leave, and the “Basic Law of Gender Equality”. We are now witnessing the fourth wave in the housewife debate. This paper examines the extent to which gender and age are taken into account in present discussions of legislation supporting women’s advancement in society, which is spurred on by changes in the social and industrial framework that include late marriages, non-marriage, a low birthrate, aging, a prolonged recession, and the IT revolution. Prospects for the future are also discussed.

**Bernd SCHULTE**

### **Age- and Gender-Specific Legal Issues in Germany**

Neither Germany nor Japan have anti-age discrimination legislation such as the Age Discrimination in Employment Act (ADEA) of the United States; legal requirements and actual practices in society and, in particular, in the work place regarding sex and gender issues tend to differ widely. Thus, a case exists for a comparative study of the legal situation in both countries. Attention will be focused on the special situation of disabled persons with regard to equality of treatment and, in particular, opportunity of employment in this respect.

A case study concerning an elderly worker will illustrate the attitudes of the German legislator, the administration, and the social partners, i.e. the employers and trade unions regarding the thorny issue of age discrimination. The term ‘*age discrimination*’ applies to situations in which the use of age to differentiate cannot be justified and results in an unfair treatment of elderly persons.

There are many legal instruments in Germany for the equal treatment of men and women, starting with the constitution, i.e. the Basic Law (Grundgesetz, GG) of 1949, which stipulates in Article 3 (2) GG that “men and women shall have equal rights”. With the application of this provision German courts have primarily sought to reduce long existing discrepancies regarding unequal pay for equal work or work of equal value for men and women. However, a more important impact on the legal situation of women with regard to men devolves from European Community Law, which takes precedence on any legal provisions of the Member States. Quite a number of directives and social action programs established and expanded an EC/EU equal opportunities

policy, which led to the strengthening of individual rights to achieve equal treatment and to promote equal opportunities. In the years to come, anti-discrimination legislation on the EU level will be extended to, among others (e.g., racial and ethnic minorities), disabled persons. The *European Year of the Disabled 2003* will be a forum for presenting this issue.

**AMEMIYA Takako**

### **The Legal System Concerning Civil Non-Profit Activities and the Movement to Reform it**

An obvious development after the Great Hanshin Earthquake of 1995 was the swift and flexible response of many volunteers and citizens from those groups that form non-profit organizations. This prompted debate on the need for revised legislation, including the tax code, of such bodies. In 1998 the “Law to Promote Specified Non-Profit Activities (NPO-Law)” was passed, allowing NPOs to become more easily “juridical persons for the public good”. 2001 saw additional legislation giving them favored tax status; later in the year, a law was passed regarding intermediate non-profit and non-public-organizations.

The “juridical persons for the public good system” has been in place within Japanese civil law for over a century, but it has not functioned well. Such organizations struggled along amidst the red-tape of official authorizations with bureaucrats breathing down their necks. And there were many problems: the only endeavors possible were those over which the authorities exercised authority; small-scale organizations could not become juridical persons. Furthermore, lack of any obligation to supply and release information led to the oft-manifested evils of the system, including the constraints imposed by the discretionary power of officialdom and the incestuous relationships between government and the private sector, such as the post-retirement hiring (“heavenly descent”) of high-level bureaucrats. The system of “juridical persons for the public good”, as legislated by civil law, referring in a broad sense to NPOs as well, has shown signs of structural fatigue in its efforts to respond quickly to the free-wheeling ideas and diverse needs of the population. With the dawn of the 21st century, we can eventually see a wave of reform sweeping over all societal bodies, including non-profit organizations.

In March 2002, the government, as part of its general administrative reform efforts, announced its intention to achieve in due course a “juridical persons for the public good system reform” within the year.

It would appear that it is less a matter of the NPO law or the middle-sized corporation law but more the correctional scalpel that is finally being applied to a civil law which had remained untouched for more than 100 years, forcing public-benefit bodies to be subject to official *fiat*. The law would now seem to be on its way to reform.

This report examines the issues of the legal system and the long history of how it has pertained to NPOs and the reform movement, while also considering the outlook for the future.

**Nikolaus TURNER**

### **The Changing Legal Framework for Foundations as Non-Profit-Organizations in Germany**

One to two foundations are established each day in Germany and are officially authorized or recognized as stipulated in the last law amendment, which replaced the former official “authorization” with the new “recognition” of foundations. Foundations are becoming increasingly popular in Germany and enjoy growing interest not only among the prosperous. Legal changes that have taken place over the past years, and which I will discuss in my paper, have been motivated more by the pitiful state of diminished public funds than by the recognition of any real conviction on the part of politicians or through an increasing awareness of civil society of the public. Despite this fact, certain improvements have been made which go beyond mere cosmetic changes, although many of the wishes of the foundations and their representatives still remain unheard. The realization of such wishes will remain a topical issue for politicians during the next legislative term.

I will present a survey of current changes in legislation covering legal rights for foundations and the tax laws governing these institutions. After analyzing the reform-movement and reform-debates of the past few years, I will finally discuss much-needed legal changes to further improve the standing of the non-profit-sector in Germany.