

De jure and de facto:
Women in the Legal Academy
**Research into career conditions in order to improve the organizational structure
and culture in jurisprudence.**

Project outline

Introduction

In 1986 Jutta Limbach, former law professor in Berlin and later president of the federal constitutional court phrased almost programmatically an article about the situation of women in jurisprudence with the title “Wie männlich ist die Rechtswissenschaft?“ (‘how masculine/male dominated is jurisprudence’) (Limbach 1986). She brings to the point a fact that has been established over the past 25 years: jurisprudence is a clearly male dominated field.

The 13th data update (2007/2008) on Women in Universities and Non-Academic Research Institutions (GWK 2009) presented by the *Gemeinsame Wissenschaftskonferenz* (GWK) (‘Joint Academic Conference’) of 02/11/2009 shows the overall ongoing significant underrepresentation of women in academia: In 2007, 6173 female professors taught and researched nationwide – which represents a share of 16.2%. This figure (including all NUT – science and engineering – subjects) is still higher than the one of the law faculties. Although the GWK report documents that the percentage of women at the different levels of qualification and positions in research and science slowly increases it also shows that this topic of high socio-political importance requires further systematic investigation. This will enhance the understanding of women’s positions in research and science and also evoke changes in the structure and culture of the academic system in terms of gender equality with the aid of relevant instruments (see press release GWK, PM 21/09 published 02/11/2009).

Meanwhile a series of research studies on living and career conditions of women academics in different faculties is available. Altogether the integration of women in the different academic disciplines takes very different courses. Depending on faculty culture and framework conditions a career in academia is easier or more difficult to pursue and therefore more or less likely. In jurisprudence apparently the latter holds true. This needs to be further investigated, analysed and demonstrated. The GWK report highlights that so far there is no study into the faculty specific situation of women law pro-

fessors in German literature (GWK 2009, p. 26 Fn. 20). The scheduled research is supposed to deliver the required data for the field of jurisprudence and thereby rectify this research deficit by dealing with these questions:

What are the exclusion mechanisms and inclusion obstacles? Particularly: who needs to intervene how in order to help support careers of women in jurisprudence to prevent the potential talent of junior academics from getting lost?

There are still law faculties with none or only one female professor, indicating that mechanisms exist that impede academic careers of women in jurisprudence. Studying these mechanisms more closely can help to shed light on factors and structures that discriminate against female academics in general.

Research questions

There is a multitude of theories trying to explain obstacles in the way of female professors aspiring careers. They mainly focus on female-specific arguments or on the impact of organizational structures and framework conditions for female academics (Stender-Vorwachs 2009; cf.: Lind 2004). The project JurPro aims to close the knowledge gap for the field of jurisprudence.

▪ Attitudes towards women in academia

Nowadays women are no longer considered as unsuitable for research, but there still is a tendency to deny the existence of unequal opportunities for women in the world of academia (Holzbecher et al. 2002, Onnen-Isemann/Oßwald 1991, Schultz, D. 1990). The main reasons quoted are external to the academic world as such, as for example: 'women are unwilling to climb the career ladder', (i. e. lack of motivation (Lehnert et al. 1998); 'women are trapped in gender specific role patterns' (Geenen 2000); or simply 'women cannot and do not want to have a career' due to the difficulty of managing family and job obligations (Onnen-Isemann/Oßwald 1991, Bochow/Joas 1987). In jurisprudence being a subject with a specifically traditional and conservative faculty and teaching culture, these kinds of stereotypes are particularly well supported and nourished, which can be documented e.g. by the image of women showcased in law teaching material at universities (Schultz 2003) and the sexist use of metaphorical language in law classes and sexist paradigms in the application of law (Limbach 1986, p. 91 ff.). It should be examined in greater detail how these attitudes and thought patterns are

coined and acquired, compared to similar research on other faculties, how they are passed on, how they take effect and how they have evolved over recent years.

- **Biography, working and living situations of female academics, and impact of social background**

As recent research has shown there is a correlation between the level of education of someone's family and how successful their careers develop (Baus 1994, Kieglmann 2000). Specifically important seems to be the role of the mother and whether she is educated herself and supportive of the child (Leemann 2002). In this context there are also subject specific differences: In jurisprudence and business, children (male and female likewise) from weaker social backgrounds have lower chances for a good integration (Leemann 2002). Interestingly, Heldrich and Schmidtchen showed in their study about law students in 1980 (Heldrich/Schmidtchen 1983) (anecdotally supported by present-day teaching experience) that female law students tend to have a good educated middle class background. This indicates that there is a bigger potential group of women fulfilling this unwritten criterion for the career ladder, which makes it even more inexplicable why the barriers for women seem to be higher.

Questions need to be asked whether the positive job satisfaction of female professors generally also applies in law faculties, or whether fights over social ranking and constant hierarchy struggles make for a different scenario.

- **Academic qualification paths of women?**

The obstacles women encounter when trying to do a PhD or habilitation in jurisprudence need to be examined more closely, as they seem to be more explicit compared to the results for other subjects. It has to be asked whether factors like (bad) study experience and discouragement on one side and reassurance and encouragement on the other side influence career orientations and whether female professors can act as role models. Especially in jurisprudence lower expectations of self-efficacy seem to be the rule. Statistics tell us that there is a vertical segregation in the faculties, with men tending to occupy the secure and well-paid jobs. This data needs to be accumulated and analyzed for the past years and in comparison to other subjects. Also relevant in this context is data about the awarding of scholarships (cf. Holzbecher et al. 2002, Eg-

gers 1996). In terms of faculty culture we intend to examine how a higher level of integration can be obtained helping women to choose an academic career (cf. Holzbecher et al. 2002, Eggers 1996). We know from experience that it is not necessarily candidates' intellectual potential that determines their choice of an academic career.

▪ **Individual and structural barriers in science**

Women often have a different idea of a career, different expectations and a different way of approaching things – their investment into a career differs from that of men (cf. Lind 2004, p. 86 ff.). Female lecturers in law faculties are more focused on the substance and content of their work whereas men show a stronger positional motivation. (e.g. Schultz, D. 1990; Onnen-Isemann/Oßwald 1991; also Schaeper 1997, p. 79 ff.). This has been identified in informal conversations in law faculties about emphases of work and the relevance of lecturing compared to publishing articles and committee work. In regards to current demands of improving the quality of teaching in jurisprudence this is a topic of high importance.

In jurisprudence more so than in other highly skilled professions the myth of the all-embracing availability and dedication of a (male) person to their work is defining the job ethos. This way of working was traditionally only possible if the spouse was fully involved by covering the partner's back and organizing all their family and social commitments (the so-called 1½ - person-career) (Geenen 2001, Engler 2000, Schultz 2003). Further research is required to establish in how far and under which premises changes to this pattern have taken place (see also Solga/Wimbauer 2005). The same goes for subtle exclusion mechanisms like the exclusion from networks and resources as well as the belittling of someone's work (cf. Engler 2001). The informal structures and processes in jurisprudence (the principle of the „glass ceiling“) have to be identified in order to draft efficient counteractive measures. Faculty statistics can help to identify in how far a horizontal segregation has taken place, i.e. an unequal assignment of women to the different legal subjects, which in turn can be related to prestige rankings within faculties and to opportunities of taking on secondary employment and generating additional income. How does symbolic masculinity relate to the perpetuation of the accustomed and traditional image of jurisprudence? In how far is the phenomenon of “optical illusion“ employed by overstating the low proportion of female academics in higher positions?

▪ **Significance of faculty culture**

Symbols and representation specific to faculty culture are a rather new field of research (cf. Lind/Löther 2007, S. 262), but in the context of the study they are of particular importance. It is a known fact that in old disciplines ranking high on the prestige ladder, such as jurisprudence, informal codes have developed over centuries and are specifically distinct (cf. Stegmeier 2005). The general *modus vivendi*, the dress style and *habitus* could be regarded as traditional to old-fashioned.

In teaching law the underlying informal code is being labelled as the “secret curriculum” which has the function of social reproduction on the one hand and which should serve as a preparation for the anticipated job culture on the other (cf. Krull/Lotze/Schulz 2001). These codes will influence the lawyers’ attitudes and mindset lifelong. The exams serve as initiation rituals (*rites de passage*); they come with a high psychological stress and act identity forming and fraternizing (cf. Kvale 1972, Schultz 2008). It is therefore important to take a close look at the subject-specific teaching-culture.

Law is taught in an authoritarian way (cf. Schaeper 1997). A “charismatic learning culture” (Bourdieu 1971) is characterized by receptive ex-cathedra teaching in lectures and a lack of didactic skills and critical discussion (cf. Röhl/Ulbrich 2007, Schultz 2011). The assumptions based on unsystematic observations are that the main goal of the law faculty culture is to create the „ideal and conformist student“ (the intelligent, young, hardworking male) and to exclude students that struggle or have further interests apart from law. These assumptions should be backed up by project research. The focus should increasingly be on the question as to what extent women influence and change faculty culture and lecturing. Helpful for finding answers may be to compare the impact of admission of women to prison regimes or the armed forces.

Consequences of the emphasis on equal opportunities measures

Appointment procedures in German academia are highly complex selection methods for leaders in research and science. (cf. Färber/Spangenberg 2008). Which deficits in regards to equal opportunities can be identified in appointment procedures for chairs in law faculties? What sort of barriers show on the structural and socio-psychological level? In jurisprudence equal opportunities subjects, goals and measures are often treated in a depreciating way partly even reflected in corresponding academic publications.

In appointment procedures matters of equal opportunities are often being played down or even completely descended. Here as well, a solid theoretical backup of so far rather generalized field reports is essential. Altogether the findings in regards to the situation of female law professors have to be compared and matched to the general measures employed in equal opportunities over the past years and necessary reforms have to be identified. The result should be, on the one hand, a realistic image of those areas that need changing, and on the other hand, of opportunities for change, overall providing the basis for sensible measures for organizational and personnel development.

Main project goals

The main project goals are,

- To gain a differentiated insight into the situation of female law professors,
- To systematically determine the specific reasons why women are still underrepresented in higher ranking positions in academia generally and in jurisprudence,
- To analyze particular career obstacles and chances,
- To identify and describe those factors which constitute the faculty culture.

As a result, indicators should be generated to show

- How the organizational culture and structure in law faculties could be enhanced
- So that career paths of women in jurisprudence can be supported and eased.

All in all, the project should lead to recommendations regarding procedures and measures to strengthen the potential of female academics.

Research blocks

The study consists of different blocks.

- **Quantitative data analysis:** The interpretation of personnel statistics gathered nationwide, and the analysis of data collected at participating universities should deliver results about vertical and horizontal segregation.
- **Qualitative scope of analysis:** Narrative interviews including biographical elements with representatives of the three personnel groups – professoriate, young academics and the old female pioneers in the field – will offer insights into career

paths and institutional framework requirements of careers in jurisprudence. Expert interviews with deans and centralized and decentralized equal opportunity officers will add the organization's point of view in regards to equal opportunities topics. The analysis of equal opportunities regulations and other documents relevant in this context shall assess the effectiveness of equal opportunities instruments and measures.

The analysis of relevant documents (teaching materials and e.g. pedigrees and obituaries) and observational field research should shed light on the law faculty culture.

- **Recommendations:** A measures catalogue will recommend actions in order to reduce career obstacles (in the areas of promoting young researchers, recruiting, creating a culture of encouragement and support for academics). These recommendations and all interim results will be discussed and critically reflected upon with representatives of participating universities, at conferences and with project board members.

Literature cited: comp. German version of the project outline.