The Position of the German Association of Women Academics on a Draft Version of the Equal Rights Law (August 1952)

Abstract

The equality of men and women was enshrined in the Basic Law that was enacted in 1949. At the same time, however, a period of several years was granted for the adjustment of subsidiary laws, especially the sections of the Civil Code [*Bürgerliches Gesetzbuch* or BGB] dealing with marriage and family law. In 1952, the contentious debate about the new BGB became focused on decision-making rights in marriage in cases of conflict, and on the question of parental authority. The German Association of Women Academics [*Deutscher Akademikerinnenbund* or DAB] criticized the fact that in both areas the primacy of the husband or father was to be preserved. They demanded unrestricted equality instead.

Source

In a detailed submission, the German Association of Women Academics [*Deutscher Akademikerinnenbund* or DAB] already responded to the memorandum "On adjusting existing family law to the principle of equality between men and women," which was written by Dr. Hagemeyer, councilor of the Higher Regional Court, at the behest of the Federal Ministry of Justice, and it has made its recommendations concerning the individuals paragraphs discussed there.

We are shocked to discover that in the draft from the Ministry of Justice that has now been submitted to the *Bundesrat* [Upper House of Parliament], the husband's right of decision-making, in deviation from the first version, has been incorporated again in § 1354 of the BGB [German Civil Code]; likewise, in § 1628 ultimate parental authority is supposed to be placed once again in the hands of the father.

On § 1354

Without revisiting our specific suggestions, the DAB renews its demand that the new law clearly and realistically reflect the principle of equality, and that it treat both spouses in the new marriage law as independent, fully responsible individuals. Should the husband's decision-making right in all matters concerning marital life be restored in § 1354, this principle would be most grievously violated. For example, the husband would thus be able to prohibit his wife from participating in public life for reasons of personal convenience and thus deprive her of one of the basic rights of our democratic constitution.

On § 1628

The conferral of the decision-making power on the father as per § 1628 must be rejected even more forcefully. We demand that paternal authority, in its entirety and without reservations, be assigned to both parents.

It is a generally known and acknowledged fact that the obligation of providing care and the obligation of raising children falls largely to the mother; as a rule, she therefore has better knowledge of each individual child and will also be able, out of a closer bond with the child, to represent its interests better vis-à-vis the father in crucial steps such as the choice of school and vocation. Both parents must try to come to an agreement; in a difference of opinion, it cannot be useful to guarantee one of the two partners *a priori* the final say and thus the right to decide. Rather, this would easily destroy a genuine

give-and-take on the most important decisions. Not only is this objectively wrong, it distorts any honest effort to arrive at a decision that is best for the child. […]

The husband's right of decision-making stems from a time when girls usually entered marriage without vocational training or experience and were often much younger than the man, and passed from the wardship of the father into that of the often older husband without knowledge of the practical, vocational, and social life outside the family. Still, this rule was already vigorously contested in the Commission of the Reichstag in 1896. During the last half century, however, the woman's way of life has changed so profoundly that this basic priority of the husband in marriage must be regarded as intolerable.

1. The girl generally receives the same basic education as the boy. The girl, too, is increasingly given a vocational education.

2. In the majority of all cases, she is gainfully employed following her vocational training, and thus, like the man, she gains through responsible work knowledge of the working world and experience with public life as such.

3. To a large percentage, she is also gainfully employed in marriage, and here, too, stands in her work as a responsible individual.

4. Like the man, she is given the right to vote at age 21, and like him, she is, as a fully responsible citizen, a co-bearer of democracy and has the rights and obligations of a free citizen in a democracy.

A law on the status of the woman that is newly written today can no longer overlook this total transformation of her educational and life track. It would be an incomprehensible anachronism if one sought to revert to the conditions of the patriarchal marriage by ignoring this change. It must strike every person as absurd, for example, to demand from a woman who has already become independent in her working life to submit to her husband's decision-making right in her personal affairs, which, after all, generally concern their life together as well.

Source: Schreiben des Deutschen Akademikerinnenbundes an den Vorsitzenden des Bundesrats betr. Stellungnahme des Deutschen Akademikerinnenbundes zu dem Entwurf eines Gesetzes über die Gleichberechtigung von Mann und Frau auf dem Gebiet des bürgerlichen Rechts im August 1952. BA/Bestand Nachlaß Lüders; reprinted in Klaus-Jörg Ruhl, ed., *Frauen in der Nachkriegszeit 1945–1963*. Munich: Deutscher Taschenbuchverlag, 1988, pp. 163–65.

Translation: Thomas Dunlap

Recommended Citation: The Position of the German Association of Women Academics on a Draft Version of the Equal Rights Law (August 1952), published in: German History in Documents and Images, <https://germanhistorydocs.org/en/occupation-and-the-emergence-of-two-states-1945-1961/ghdi:document-4518> [November 18, 2026].