Gender, Intersections, and Institutions

Davidson-Schmich, Louise K.

Published by University of Michigan Press

Davidson-Schmich, Louise K.
Gender, Intersections, and Institutions: Intersectional Groups Building Alliances and Gaining Voice in Germany.

For additional information about this book
https://muse.jhu.edu/book/55949

For content related to this chapter
https://muse.jhu.edu/related_content?type=book&id=2023865
When Germany joined NATO and established the Bundeswehr in 1955, women were banned from all units and all specialties. In the decades that followed, isolated political elites suggested opening more military positions to women, which resulted in women’s introduction to medical services in 1975 and in their entrance into the musical corps in 1991. However, an unlikely coalition of German women’s and feminist organizations, socially conservative voices, and indeed all political parties but one effectively prevented integration beyond these very limited areas. One interest group alone—the German Military Association (Deutscher Bundeswehrverband [DBwV])—mobilized around this issue, beginning in the 1990s.

Women who demanded access to a wider range of professional opportunities within the Bundeswehr did so from a multiply disadvantaged position as a consequence of gender as well as a lack of leverage within the institution of the military (see box 3). As in military organizations in most countries in the contemporary world, women do not occupy a position of power in the Bundeswehr. Contemporary militaries are highly masculinist in design, ethos, and membership and are referred to in feminist research
• gender, intersections, and institutions

as a site of “hegemonic masculinity” (see Connell and Messerschmidt 2005; Kronsell 2005). Women’s inclusion in a wider range of occupations in the Bundeswehr thus was contested in terms of whether they even belonged in a military at all. Efforts at effecting their inclusion were also challenged by women’s structural lack of resources in the military. Although we would describe women’s gender as a disadvantage in any patriarchal system, women were and remain few in number in the Bundeswehr, posing additional and different challenges their effective advocacy. Prior to the extensive reforms in the early 2000s, women’s presence in the German military was among the lowest in Europe. Liebert (2004) cites women’s presence in the Bundeswehr in 2000 at 1.3 percent, while women’s presence in other European Union states’ militaries at that time ranged between 4 and 10 percent (see also Kümmel 2015). Further, until these reforms, women were present only in the medical and musical services, hardly positions of decision-making leverage.

The Bundeswehr does not occupy a position of particular prestige in Germany, as militaries do in many other countries. In the wake of World War II, Germany did not aim to rebuild its military prominence and instead saw the emergence of strong antimilitary sentiment. As Berger (2003) notes in his military history of postwar Germany and Japan, even peacekeeping operations are subject to serious domestic debate. Women seeking to expand their potential roles in the Bundeswehr thus did so in the face of strong opposition from both within and outside the organization in which they worked. They struggled against masculinist norms regarding who ought to be the protected and who the protectors, as well as against

**BOX 3. **Women in the Military

<table>
<thead>
<tr>
<th>Intersection studied</th>
<th>Gender + Employment in the Military</th>
</tr>
</thead>
<tbody>
<tr>
<td>Time period studied</td>
<td>1955–2001</td>
</tr>
<tr>
<td>Policy issue studied</td>
<td>Legalizing women’s employment in combat positions</td>
</tr>
<tr>
<td>International ally</td>
<td>European Court of Justice (ECJ)</td>
</tr>
<tr>
<td>German policymakers as allies</td>
<td>Free Democratic Party</td>
</tr>
<tr>
<td></td>
<td>CDU/CSU, SPD, Alliance 90/Greens</td>
</tr>
<tr>
<td></td>
<td><em>(after ECJ ruling)</em></td>
</tr>
<tr>
<td>Domestic interest group allies</td>
<td>German Military Association (Deutscher Bundeswehrverband [DBwV])</td>
</tr>
</tbody>
</table>
institutional inertia, and they did so in order to have the opportunity to join an organization that many Germans did not like much to begin with (Stiehm 1982).

However, demands for women’s integration into the Bundeswehr ultimately succeeded by exploiting a pathway from above, bypassing this substantial opposition at the domestic level. Women’s integration into the Bundeswehr in 2001 was in many senses the direct consequence of an externality, in the form of an early 2000 European Court of Justice (ECJ) ruling (C-285/98, Tanja Kreil v. Federal Republic of Germany). This process is in contrast to the United States, for example, where women’s organizations were key to advances in women’s opportunities within the military (Katzenstein 1998, 91; Ferree 2012).

In 1998, nineteen-year-old Tanja Kreil brought a discrimination claim to court, arguing that the Bundeswehr’s refusal to hire her as a weapons electrician on the grounds that any work with weapons was closed to women, regardless of competency, abrogated European Union laws regarding equal employment rights. Because Kreil was appealing to EU standards, Hannover’s Administrative Court, where Kreil initially brought her case, filed for a preliminary ruling with the ECJ (“Reference” 1998). The ECJ’s early 2000 ruling in Tanja Kreil v. Federal Republic of Germany stated that Germany’s categorical ban on women from any position in any unit that would use weapons if engaged in combat was incompatible with the EU’s Council Directive 76/207/EEC on Equal Treatment for Men and Women in Employment (9 February 1976) (European Union 1976).

The process of policy change did not end with the ECJ’s ruling, however. This ruling precipitated extensive debates within Germany regarding whether its implementation required an amendment to the Basic Law (Grundgesetz). In this subsequent round of debate, political elites’ interests appeared to converge with the interests of the group seeking policy change rather than the other way around. Taken together, this case provides an illustration of policy change for an intersectional group in several distinct stages along two of the pathways discussed in the introduction.

**Theoretical Perspectives**

Many studies of women in the military take a sociological approach, focusing on beliefs, values, and group dynamics. These studies tackle masculinist and other gender discourses in the military (Stanley 1993; Miller and Moskos 1995; Fenner 1998; Woodward and Winter 2004), offer insight
into how women’s inclusion in combat units might shape organizational dynamics (Rosen et al. 1996), and analyze sources of variation in attitudes toward women’s inclusion (Stiehm 1998; Kümmel 2002, 2015).

By contrast, this chapter takes a structural approach to understanding this policy change. It conceptualizes demands and interests in terms of competing constituencies and these constituencies’ structural locations. It traces the various voices and orientations toward women in the Bundeswehr over the course of profound social transformation (1955–2001) to illustrate how women who demanded the expansion of military roles available to them failed to overcome substantial and cross-ideological opposition at the national level, succeeding only when this demand was empowered from above via the ECJ’s decision. In early 2000, German federal policymakers still had important choices to make regarding the implementation of the ECJ’s ruling. The subsequent debate revealed a second round of policymaking, during which political elites in the Bundestag, the Bundeswehr, and the Ministry of Defense reversed positions and constructed constituencies for whom they justified implementing full-scale integration of women into all specialties and units.

A focus on voices and constituencies makes it possible to trace the pathway to policy change when an externality structurally changed the debate. By examining which actors and organizations switched positions (and how) in the wake of the ECJ decision, this analysis shows that minority women potentially find policy success in seemingly nonlinear ways. After 2000, policymakers looked backward, reimagined constituencies, and then switched to defending them, a strategy that seemed to enable elites to soften the blow of being forced to make these reforms. In other words, this second round of policymaking saw an ex post convergence of military women’s demands with political elites’ interests.

Sources of Evidence

This chapter draws on German news coverage, ECJ documents, texts of proposed laws, and transcripts of Bundestag plenary session debates between 1970 and 2001. The chapter argues first that demands for expanding women’s roles in the Bundeswehr found little support across a wide range of German politics and society and second that after the Kreil ruling, policymakers created constituencies in their debates about how to implement these inevitable, externally imposed reforms.

Material from German newspapers and newsmagazines provides con-
temporary snapshots of the evolving debate on women’s participation in the Bundeswehr. These snapshots include quotations from prominent voices in the federal government, the Bundeswehr, and the DBwV. This news coverage also confirms when important debates and decisions—such as the 1996 Bundesverwaltungsgericht decision regarding women in the infantry—entered into public awareness and conversation.

Texts of laws and court decisions in turn serve as evidence of the reasoning behind the decisions, which documents the changing legal landscape as well as political actors’ orientations. For example, legislative drafts and legal decisions clearly document the transition between using Article 12a of the Basic Law as a justification for women’s exclusion to viewing it as a roadblock to achieving policy change. Finally, a growing body of research in political science uses political texts, including parliamentary debate transcripts (for Germany, see Davidson-Schmich 2006; Bernauer and Bräuninger 2009; Xydias 2014).

Despite the fact that women’s integration into the Bundeswehr resulted from external forces, German policymakers’ implementation of the change quickly acquired familiar contours. The constituencies created by policymakers in these debates reflected very familiar axes of ideological difference in German politics, particularly regarding women and gender. In many cases, political parties and individual actors completely reversed their positions over just a few months.

**Tracing Women’s Integration into the Bundeswehr**

**Historical Background**

In the aftermath of World War II, the framers of West Germany’s Basic Law transparently aimed to uphold traditional family structures. Article 6, for example, explicitly placed “marriage, motherhood, and the family under the ‘particular protection’ of the state” (Moeller 1993, 41). With the exception of the constitutional clause guaranteeing equality of the sexes, which was included in the Basic Law’s original text in 1949, much of the story of advancing women’s rights in Germany has consisted of deconstructing highly discriminatory provisions within the Basic Law and the German Civil Code. For example, until the late 1950s, the code explicitly identified household labor and child care as the wife’s responsibility: Section 1356 stipulated that wives must look after their families and required that they obtain their husbands’ permission to seek employment outside the home;
Section 1360 stipulated that wives must seek paid employment “in addition to [their] regular housework duties” if their husbands’ income was not adequate (see Kolinsky 1993, 3–50). Changes to inegalitarian provisions regarding parental and divorce rights did not occur until the late 1970s.

West Germany joined NATO in 1955 and established the Bundeswehr late that year. In line with the contemporary legal landscape, Clause 4 was added to Article 12a of the Basic Law to bar women from any military service involving weapons:

If, during a state of defense, the need for civilian services in the civilian health system or in stationary military hospitals cannot be met on a voluntary basis, women between the ages of eighteen and fifty-five may be called upon to render such services by or pursuant to a law. Under no circumstances may they render service involving the use of arms. (emphasis added)

For the next forty-five years, policymakers and the courts interpreted this clause to mean that women categorically could not be employed in units that were armed. Only very limited positions were open to women, who accounted for a tiny fraction of military personnel. By the 1990s, the extent of women’s exclusion from German military was unusual for Europe as well as much of the rest of the world (Goldstein 2001; Liebert 2004; Kümmel 2015).

In the late 1990s, several individual German women pursued legal cases regarding their rejection from specific military posts (i.e., employment prohibited on the basis of sex rather than competency). Bettina Baggerow, for example, was barred from transferring from the medical services to armored division services as a result of her gender and initiated proceedings against the Bundeswehr. The Administrative Bundeswehr Court of the North (Truppendienstgericht Nord) forwarded her complaint onward to the Constitutional Court (Bundesverfassungsgericht), where a paperwork error brought the effort to an end (Gramman 2006; see also Holzer 1997; Preissler 1997; “Frauen und Militär” 2000). In another 1996 case, the Bundesverwaltungsgericht ruled on the basis of Article 12a that women did not have the right to serve in the infantry (Rath and Oestreich 1999).

These failures at the national level are not surprising given (1) the lack of mobilization in favor of women’s integration and (2) the extent of mobilization in opposition to it. An alternative route via international institu-
tions was necessary to bring national attention to the concerns expressed by Kreil and other women in the military.

Pre-2000 Preferences

The domestic constituencies that favored women’s inclusion in the Bundeswehr were insufficiently mobilized around this issue, weakly positioned to engage in effective advocacy, or absent entirely. At the same time, German civil society organizations that might have been expected to lobby for this policy change mobilized in opposition to it. Further, most national political elites did not favor women’s inclusion throughout this period. This resistance extended to the constitutional amendment that would likely need to accompany such reforms.

Throughout the 1990s, newspaper articles identified the DBwV as supporting the broader cause of women’s inclusion in the military. The DBwV is a civil society organization that has existed since 1956, immediately after the establishment of the Bundeswehr itself. The organization is broad-based and serves a diverse population of service personnel. It describes itself as follows:

The DBwV is a nonpartisan and financially independent institution. It represents the interests of its approximately 200,000 members in all issues relating to their service and social and compensation rights. These members include active soldiers and reservists, both former and current service people, and civil as well as associate members.³

In Germany’s corporatist system, organizations such as the DBwV maintain formal connections to policymakers and play a role in consolidating interests and promoting policies. The DBwV’s initiative has produced key federal legislation, such as the Soldatenbeteiligungsgesetz (Section 35, 1991), which further outlined soldiers’ rights. The DBwV also has a history of supporting women interested in expanding their access to positions within the Bundeswehr. In 1997, a former head of the DBwV, Bernhard Gertz, stated his belief that the Basic Law forbids only women’s compulsory service in armed positions, not voluntary service (“Ich will Soldatin sein!” 1997). In October 1999, Jürgen Meinberg of the DBwV indicated that the organization had been waiting for someone like Kreil to pursue a supranational route to policy change (“Europa-Richter?” 1999).
This support for a legal path to policy change lay with forces internal to the DBwV. On the one hand, the DBwV serves many constituencies, some of which did not favor women’s inclusion in armed units. High-profile figures in the Bundeswehr were quoted throughout the 1980s and 1990s as opposing the expansion of women’s roles. Conversely, service members supported the expansion of women’s roles. April 2000 surveys of male soldiers by the Bundeswehr Institute for Social Research showed that only 15 percent of respondents remained strongly opposed to any expansion of women’s roles, while 69 percent of respondents thought that expansion would have a “positive effect on the image of the Bundeswehr within society” and 51 percent thought “there should be no restricted classifications and trades for women” (Kümmel 2002).

Newspaper coverage of and interviews with soldiers and DBwV leaders over the 1990s indicate that a movement of women within the DBwV promoted expansion of women’s roles, prompting the association to seek a case to support. This effort provided a galvanizing force behind the 1998 establishment of the DBwV’s internal Working Group of Women Soldiers (Arbeitsgruppe Weibliche Soldaten), that advocated on behalf of women on this and other matters (Apelt 2015, 229).

While the DBwV was working to expand roles available to women in the military, women’s and feminist organizations outside the DBwV were largely united in opposition to this expansion, especially during the 1970s and 1980s. These organizations not only declined to advance the cause of women’s inclusion for much of the period leading up to the Kreil case but also actively resisted it when it arose in debate. According to Ferree, feminist organizations in Germany (both West and East) have consistently opposed women’s inclusion in the military (2012, 85–86, 104–5). More generally, German feminists rejected women’s inclusion in patriarchal institutions as a route to equality. Brief efforts by the Defense Ministry to open more Bundeswehr positions to women in the late 1970s and early 1980s produced what Ferree describes as an “uproar” by German feminist groups (104). According to Kaplan, the idea of women’s compulsory military service in particular was “considered preposterous by most West German women” into the 1990s, and the Defense Ministry’s overtures in the 1970s and 1980s precipitated anti-military protests so extensive that they can be credited with revitalizing the women’s movement (1992, 117).

At various points between the 1970s and 1990s, isolated political
elites at the federal ministry level raised the possibility of altering Germany’s policies on women in the Bundeswehr. Sometimes these suggestions were made in the context of broader commissions on women’s rights, though more frequently they were part of longer-term planning for the Bundeswehr. In late 1973, the Social Democratic Party (SPD) and the Free Democratic Party (FDP) established the Women and Society commission to investigate the status of women in Germany. This commission led defense minister Georg Leber (SPD) to open medical services to women in the fall of 1975. Kümmel (2002) and others note that the German military was experiencing substantial recruitment problems at this time.

In the 1980s, ministry-level attention to expanding women’s roles was explicitly a pragmatic response to decreasing enlistment rates. For example, the written report for the 1982 Commission for Long-Term Planning for the Bundeswehr (Kommission für Langzeitplanung der Bundeswehr) included the possibility of expanding women’s voluntary service as the final bullet point in a list of options for addressing the personnel shortage. The commission identified the Basic Law’s language on women’s military service as fixed and explicitly stated that women should be allowed into the positions left open by higher rates of retirement (Konrad-Adenauer-Stiftung 1982, 4). However, most political actors at the time did not find this suggestion persuasive. Germany’s 1990 reunification brought an influx of soldiers and potential soldiers that solved the problem of recruitment.

Only the FDP, Germany’s liberal party, consistently favored women’s inclusion and organized efforts to achieve it (see table I.1 in the Introduction). In 1981, long before the individual lawsuits of the 1990s and exactly twenty years before the Kreil ruling took effect, the Friedrich-Naumann-Stiftung (the FDP’s foundation) held a seminar on the question of Women and the Bundeswehr. The seminar’s report includes statements by each political party that held national office at that time: the FDP, the Social Democratic Party (SPD, Germany’s large center-left party), the Christian Democratic Union and the Christian Social Union (CDU/CSU, the center-right sister parties), and the Greens (Germany’s left-oriented post-materialist party). The report also includes commentary by several significant unions and interest groups, the Ministry of Defense, and several women’s organizations (Friedrich-Naumann-Stiftung 1981). For a summary of political parties’ evolving positions on women’s integration in the military, see table 3.1.
In the wake of the failed 1996 lawsuit attempting to amend the Basic Law, the FDP repeatedly attempted to use the legislative process to change the law. FDP general secretary Westerwelle declared that the “final sex-specific occupational prohibition [das letzte geschlechtspezifische Berufsverbot]” must come to an end (quoted in Rath and Oestreich 1999). Beginning in the thirteenth legislative period (1994–98), the FDP drafted proposals to amend the Basic Law to end this sex-based exclusionary rule. They asked the government to take the helm in November 1996 and again in 1999 (BT-Drucksache 13/6056, 8.11.96, 25–26). None of these efforts

| TABLE 3.1. German Political Parties’ Shifting Views Regarding Women in the Bundeswehr |
|-----------------------------------------------|-----------------------------------------------|-----------------------------------------------|-----------------------------------------------|
| **Christian Democratic Union (CDU)** | | |
| Opposed | Opposed | Opposed | In favor of women’s voluntary service |
| **Christian Social Union (CSU)** | | |
| Opposed | Opposed | Opposed | In favor of women’s voluntary service |
| **Social Democratic Party (SPD)** | | |
| A few elites in favor; most opposed | Opposed | Opposed | In favor of women’s voluntary service |\(a\) |
| **Party of Democratic Socialism (PDS)/Left Party** | | |
| N/A\(a\) | Opposed, along with more general antimilitarism | Opposed, along with more general antimilitarism | Opposed, along with more general antimilitarism |
| **Alliance 90/Greens** | | |
| Opposed, along with more general antimilitarism | Opposed, along with more general antimilitarism | Opposed, along with more general antimilitarism | In favor of women’s (and men’s) voluntary service |
| **Free Democratic Party (FDP)** | | |
| In favor | In favor | In favor | In favor |

---

\(a\)The PDS did not join this debate until Germany’s reunification in 1990. At that time, the former East German Socialist Unity Party became the PDS. The 2007 merger of the PDS and dissatisfied former members of the SPD created the Left Party.

\(b\)After the January 2000 ECJ ruling, minister of defense Rudolf Scharping (SPD) became a proponent of women’s integration into the Bundeswehr. Other members of the SPD were not as quick to reverse positions, though the final vote on amending the Basic Law’s Article 12a was almost unanimous.
succeeded until after ECJ advocate general La Pergola delivered his October 1999 opinion, which clearly indicated that the ECJ was likely to rule in Kreil’s favor.

In the 11 November 1999 debate on the FDP-led proposal to amend the Basic Law, FDP legislator Ina Lenke stated, “It is truly shameful that a young woman had to take a case to the ECJ in order to end this last sex-specific job prohibition” (BT-Plenarprotokoll, 14/69, 11.11.99, 6246).


The ultimately successful route to legal reform led through the European courts. In 1996, Tanja Kreil, who had trained as an electrician, applied for a weapons maintenance position in the Bundeswehr. Although Kreil’s training qualified her for the position, her application was rejected as a consequence of the Basic Law’s Article 12a. Kreil’s first response was to contact Germany’s defense minister, Volker Rühe, to contest the rejection. His response was along the lines of “It’s not going to happen” (Rübsam 1999). Kreil’s boyfriend, himself a Zeitsoldat (a noncareer soldier), suggested that she turn to the DBwV (Rübsam 1999).

With the DBwV’s support, Kreil brought her case to Hannover’s Administrative Court (Verwaltungsgericht Hannover), which in turn requested a preliminary ruling from the ECJ. The preliminary hearing is an EU mechanism by which national courts ask for European courts’ assistance in interpreting EU law. The ECJ assembled opinions on the question and issued a ruling. The German government, with supporting documents submitted by Italy and Great Britain, argued that the regulation of member states’ armed forces fell outside the jurisdiction of EU law. Nonetheless, La Pergola ruled that Article 12a perpetrated an excessively broad exclusion rule for women and contradicted the 1976 EU Council Directive.

Scholars have focused on understanding this case as part of the ECJ’s (and by extension the EU’s) consolidation of its jurisdiction above the legal systems of any individual EU member state. According to Alter, the ECJ’s “preliminary ruling system was not designed to be a ‘decentralized’ mechanism to facilitate more monitoring of member state compliance with the” Treaty of Rome/Treaty on European Union (1998, 125). Instead, Alter argues that the court’s jurisdiction expanded through the development of a doctrine of direct effect that “transformed the preliminary ruling system from a mechanism to allow individuals to question EC law into a mechanism to allow individuals to question national law” (126). “Decades of ECJ
rulings transformed the Treaty of Rome into a de facto constitution for the European Community” (Alter and Helfer 2010, 564). Schwarze argues that the ECJ’s ruling in Kreil v. Germany amounted to “applying fundamental principles of Community law in those areas which do not lie within the competence of the Community” (2002, 28).

In addition to forming part of the contested expansion of supranational jurisdiction, this ECJ ruling illustrates a pathway that enables intersectional groups to circumvent opposition at the domestic level, particularly regarding cases that appeal to EU-wide antidiscrimination directives. Both the ECJ and the European Court of Human Rights have offered space for cases like Kreil’s—for example, Roma communities across Europe have won discrimination claims that have failed in national courts (Barth 2008; for similar cases in supranational courts, see Slagter 2006). Nevertheless, success is not guaranteed at the international level; in S.A.S. v. France (2014), for example, a French Muslim woman (multiply disadvantaged by gender and religion) unsuccessfully contested France’s ban on face covering (Law of 2010-1192: Act Prohibiting Concealment of the Face in Public Space). However, when success is unavailable under domestic laws or unlikely in national spaces, supranational courts such as the ECJ and the European Court of Human Rights offer additional venues for legal contestation.

Bundeswehr Reforms: Imagining Constituencies

When asked why German policymakers had not acted earlier to implement reforms they then took as inevitable, Ulla Schmidt, vice chair of the SPD, stated, “There wasn’t any pressure on us to do so until now” (quoted in Oestreich 1999).

Debates within the Ministry of Defense and within the Bundestag over how to implement the reforms required by Kreil v. Germany thus began in 1999 without the kind of bottom-up efforts by constituencies that characterize much policy change (e.g., Henninger, this vol.). There was no clear set of domestic constituencies in competition over how to implement these reforms, because German policymakers had dragged their heels over the question of whether women’s integration into the Bundeswehr was appropriate, desirable, or necessary.

The only two parties to maintain consistent preferences throughout these debates were the FDP and the Party of Democratic Socialism (PDS; later the Left/PDS), two small parties that were often in the opposition. The FDP consistently supported both a constitutional amendment and
women’s integration, while the PDS consistently opposed an expansion of women’s roles on the grounds that Bundeswehr reforms ought to take the form of disarmament. The remaining political parties therefore completely reversed their previous positions.

So whose demands were incorporated into the Bundestag’s debates over implementing the ECJ’s ruling? The text of Bundeswehr reform laws and plenary session transcripts of Bundestag debates on those laws show evidence that policymakers constructed constituents and justified their parties’ new positions on behalf of those constituents. Once it became clear that the Kreil ruling could not be avoided, debates among German political elites about how to implement these reforms began appealing to sets of constituencies for whom there is little evidence of mobilization. Although the ECJ’s ruling cited workplace opportunities and discrimination, these debates rapidly became about gender and gender expectations more broadly. In these debates, speakers frequently made sweeping claims about what women wanted or preferred. (The positions of the speakers’ parties at this stage are characterized in the last column of table 3.1.)

For example, in the absence of clear mobilization by actual German constituents with crystallized preferences, some content of these debates in the Bundestag consisted of factual arguments about whether women even wanted to be in the Bundeswehr. On 11 November 1999, before the ECJ issued its formal ruling, representatives Irmgard Schewe-Gerigk (Greens) and Birgit Homburger (FDP) sparred on this point, with Schewe-Gerigk stating that she did not believe that women’s interest in the Bundeswehr was as high as people claimed and that even Tanja Kreil was no longer interested (BT-Plenarprotokoll, 14/69, 11.11.99, 6250). Schewe-Gerigk’s skepticism reflects the Green Party’s close connections with German women’s movements and its consequent history of rejecting women’s inclusion in the Bundeswehr as the militarization of society and not emancipatory for women.

In line with her party’s long-standing position on this question, Brandt-Elsweier interrupted Schewe-Gerigk to clarify that Kreil was still interested in serving. Brandt-Elsweier’s FDP colleague, Ina Lenke, had previously justified her support for amending the Basic Law on the grounds that “interest among young women in the Bundeswehr has sharply increased” (BT-Plenarprotokoll, 14/69, 11.11.99, 6246). In the same debate, Petra Bläss from the PDS noted that the Bundestag’s sudden interest in these matters “should make women suspicious” because the military “is no field of emancipation” (6253, 6254).
In October and November 2000, following the final ECJ ruling, the debate over fully integrating women into the Bundeswehr became largely absorbed into debates about the modernization of the German military. Speakers who would not have been expected to favor women in combat—for example, the defense minister, who had expressed opposition prior to the Kreil ruling—elided references to modernization and improvement with the expansion of military roles for women.

On 12 October, for example, many speakers focused on these broader changes. Referring to efficiency and economy (Effizienz und Wirtschaftlichkeit), minister Scharping stated that the Bundeswehr required extensive reform to maintain Germany’s obligations to NATO, and only briefly and at the very end of his speech did he indicate that these reforms would include wider roles for women (BT-Plenarprotokoll, 14/124, 12.10.00, 11874). When contributions to this debate referred to women, the speakers were typically female, and they began by expressing incredulity at how little attention was being paid to this momentous policy change. These speakers included members of parties that just one year earlier had emphatically opposed the change. Angelika Beer of the Green Party noted with sarcasm that although the legislators were in the midst of opening all military roles to women, everyone seemed to be ignoring that part of the process (BT-Plenarprotokoll, 14/124, 12.10.00, 11885). Verena Wohlleben of the SPD similarly asked, “How have you gone this entire time without talking about women?!?” (BT-Plenarprotokoll, 14/124, 12.10.00, 11891). And all of these speakers avoided referring to the ECJ.

Wolfgang Gehrke and other members of the PDS remained resistant to the frame of the debate at all stages, arguing that the way forward ought to lie with disarmament (see BT-Plenarprotokoll, 14/124, 12.10.00, 11890A). On 10 November, Heidi Lippmann (PDS) stated that the expansion of women’s occupational choice in the Bundeswehr had “nothing to do with equality” (BT-Plenarprotokoll, 14/131, 10.11.00, 12671).

News coverage at the time widely acknowledged that the expansion of women’s roles also called into question men’s compulsory military service (see, e.g., “Bundeswehr-Verband” 2000). The debate over amending Article 12a focused more on the question of whether making service voluntary for women opened the door for discrimination suits by men, who until July 2011 faced compulsory service. Unlike in debates on the logistics of expanding women’s military roles, speakers in these debates referred frequently to the ECJ ruling. Both male and female members of the CDU in particular emphasized that the decision regarding Article 12a should not
affect compulsory military service for men and that any military service by women must be entirely voluntary. This strategy appears to be a conservative way to manage concerns about social change. At the same time, speakers from the Green Party, such as Volker Beck, heralded the amendment as finally ending an area of workplace discrimination and “achieving greater clarity and stability of rights in the Basic Law” (BT-Plenarprotokoll, 14/128, 27.10.00, 12341).

In the end, both the Bundestag and Bundesrat passed the amendment of the Basic Law with far more support than the change would have had just one year earlier. The opening remarks delivered by Rupert Scholz (CDU/CSU) on 27 October 2000 included the claim that everyone in the chamber agreed on this issue (“Wir sind in diesem Hause in der Sache einig”), but such unanimity represented a very new development, and FDP members raucously expressed incredulity in response to Scholz’s assertion (BT-Plenarprotokoll, 14/128, 27.10.00, 12340). As passed, the constitutional change reads, “Women cannot be forced to perform armed military service” (emphasis added).

Conclusions

It is productive to analyze the policy change that resulted in the integration of women into the Bundeswehr in intersectional terms. Women hoping to overturn Germany’s overarching ban on women’s participation in the military were disadvantaged in their efforts not merely by their gender but also by other structural positions: they were few in number and located in an organization that lacked general public favor. Kreil’s success points to the possibility that other intersectional groups and their members can voice their grievances via the supranational level. Although success in the ECJ and other EU-level courts is not guaranteed, these venues may allow groups to sidestep entrenched disadvantage in their national settings and leverage more extensive antidiscrimination rulings to their benefit.

Subsequent debates in German government over how to implement the Kreil ruling show that policymakers’ framing of and advocacy for intersectional groups’ interests may be highly contingent on the broader political environment. Most German policymakers did not back women pressing for professional opportunities in the Bundeswehr until top-down pressure forced them to do so. In other words, political elites’ expressed preferences were mutable. Further, members of the Bundestag and other German political elites justified changes to Article 12a less in terms of the ECJ ruling.
and more in terms of both wider policy goals (principally modernizing the German military) and other, sometimes fabricated, constituents. Thus, this case exemplifies both top-down policy change and ultimately policy change via convergence with political elites’ interests.

NOTES

1. Unless otherwise indicated, all translations are by the author.
2. See https://www.dbwv.de/
3. The PdS also maintained its opposition to women’s inclusion as part of general opposition to militarism; however, the PdS did not exist for the entire period studied here.
4. The Friedrich-Naumann-Stiftung organized this seminar in response to the Defense Ministry’s suggestion that introducing women into more roles in the Bundeswehr would alleviate the problem of low numbers of male volunteers.
5. These *schriftliche Erklärungen* are not made public without a freedom of information request. Secondhand descriptions of these arguments appear in numerous sources. See, e.g., Slagter 2006.

REFERENCES


