

DEPARTMENT OF SOCIAL POLICY AND
INTERVENTION



BARNETT PAPERS IN SOCIAL RESEARCH

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WORKING PAPER 13-06

December 2013

Editor:

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Abstract

This article demonstrates how the Conservative system of social protection in Germany has qualitatively been converging towards the Liberal American model during the past two decades. For insiders the social protection arrangements in the domains of securing against the risks of old age and unemployment have become very similar. Nevertheless, we continue to witness stark dissimilarities in the arrangements for social protection outsiders: whereas Germany continues to constitutionally guarantee a legal entitlement to minimum social protection for all citizens, such a guarantee does not exist in the US; moreover, the lack of such legal entitlement for poor people of working age, combined with the criminalization of the ‘dangerous classes’, is a key differentiating characteristic of the US model at the beginning of the 21st century.

Acknowledgements

I thank Stephan Leibfried, Lutz Leisering and the other participants of the workshop honoring Franz-Xaver Kaufmann, held on 14 December 2012 at the University of Bielefeld, as well as the members of the Politics of Social Policy Research Group at the Oxford Institute of Social Policy, University of Oxford, for their helpful comments. I also want to acknowledge the helpful comments received from colleagues at two workshops at the University of Southern Denmark (Odense; 18 November 2010) and at the Social Sciences Centre in Berlin (WZB; 26 October 2012) on earlier versions of this paper.

Introduction

Kaufmann's conceptualization of the welfare state is rooted in the concepts of social rights and social citizenship. Domestically the US has never signed up to these concepts and cannot be categorized as a welfare state, thus defined. Although Europe and the United States might be "United in Diversity", as argued by Alber and Gilbert (2009) using an Anglo-Saxon analytical framework of the welfare state, it might very well be the case that, what unites many European countries vis-à-vis the US is a common normative understanding of the state's responsibility for basic social protection of all citizens.¹ Kaufmann (2013) classifies the United States as 'capitalism' with a highly fragmented welfare sector, whereas Germany and most European countries are classified as social or welfare states.

This article will demonstrate how the Conservative system of social protection in Germany has qualitatively been converging towards the Liberal American model during the past two decades. I would like to note two disclaimers at the outset: 1) the analysis presented in this paper is largely limited to social protection for the unemployed and pensioners. Such an approach excludes important areas of social policy, especially social services, such as health care, long-term care and childcare, but also education. Nevertheless, unemployment and old age constitute two core 'old' social risks, which have dominated much of comparative welfare state and social policy research and have significantly contributed to the construction of welfare state typologies. 2) Convergence is understood as a process, which leads to a minimization of differences.² Despite an overall process of convergence, we continue to witness stark dissimilarities in the arrangements for social protection outsiders: whereas Germany continues to constitutionally guarantee a legal entitlement to minimum social

¹ For a discussion of the European Social Model, see Kaelble and Schmid (2004).

² For a discussion of the concept, see Kitschelt *et al.* (1999), Seeleib-Kaiser (2001) and Unger and Warden (1995).

protection for all citizens, such a guarantee does not exist in the US; moreover, the lack of such legal entitlement for poor people of working age, combined with the criminalization of the ‘dangerous classes’, is a key differentiating characteristic of the US model at the beginning of the 21st century.

Social protection in industrial welfare capitalism: Germany and the US

Germany and the United States are said to have very different approaches to welfare. In the literature, the two countries constitute the prototypes of the Conservative (or alternatively Christian-Democratic or Bismarckian) and Liberal welfare state regime respectively. Characterizing the US as a Liberal welfare state, deviates from Kaufmann’s normatively-rooted sociological approach to the concept of welfare state and follows an Anglo-Saxon understanding, whereby ‘welfare state’ can be defined as “[a] term that emerged in the 1940s to describe situations where the state has a major responsibility for welfare provision via social security systems, offering services and benefits to meet people’s basic needs for housing, health, education, and income” (Marshall, 1998: 702). Liberal welfare states are usually understood to largely depend on market provision and means-tested public social policy, whereas Conservative welfare states are said to primarily rely on the concept of social insurance to provide social protection, with the aim of social cohesion and stability (Esping-Andersen (1990); for a systematic review of the literature and discussion of the overall usefulness of welfare state typologies as a concept see Ferragina and Seeleib-Kaiser (2011)). According to the power resources theory – with its emphasis on the strength of organized labor and social democracy (Stephens, 1979 and Korpi, 1983) – complemented by research on the role of Christian Democracy (van Kersbergen, 1995), it is no surprise that the United States have historically developed a less comprehensive and qualitatively different welfare

state than Germany, as organized Christian Democracy and Social Democracy have played no substantive role in the development of the American welfare state (Lipset and Marks, 2000).

Despite the big advances made in comparative welfare state research over the past decades, much of this research has not *sufficiently* addressed welfare dualism and the role played by private social policies (but see Shalev, 1996). Welfare dualism or social protection dualism relates to the differentiation between insiders and outsiders within a welfare system. Until recently the concept has been largely neglected in the *comparative* welfare state literature,³ as countries are usually characterized based on their dominant mode of social policy intervention, i.e. universalism, social insurance or means-testing. A core variable in comparative analysis is the degree of decommodification provided by the various *public* or *statutory* social policies for the Average Production Worker [APW] or Average Worker [AW].⁴ To overcome some of the limitations associated with these concepts and building on Seeleib-Kaiser (2001, 2008) this article includes an analysis of private social benefits and places a special emphasis on the analysis of social protection for outsiders.

Historically both the German and US-American welfare systems have clearly distinguished between social protection insiders and outsiders (Leibfried and Tennstedt, 1985; Weir *et al.*,

³ Although Esping-Andersen (1990) had identified dualism with regard to social protection arrangements in liberal welfare states, such as the United States, the concept was not systematically analyzed until more recently (see Seeleib-Kaiser *et al.*, 2012 and the various other contributions in Emmenegger *et al.*, 2012).

⁴ According to the OECD an Average Production Worker (APW) is defined as somebody who earns the average income of full-time production workers in the manufacturing sector of the country concerned. The average production worker is single, meaning that he or she does not receive any tax relief in respect of a spouse, unmarried partner or child. An Average Worker (AW) is defined as an adult full-time worker in the private sector whose wage earnings are equal to the average wage earnings of such workers. This definition includes manual and non-manual workers, supervisory workers as well as managerial workers. The private sector is defined as Sectors B-N inclusive (ISIC Revision 4) or previously as Sectors C-K inclusive (ISIC Revision 3), with reference to the International Standard Industrial Classification of All Economic Activities (see <http://stats.oecd.org/glossary/detail.asp?ID=7347>).

1988). Social protection insiders can be defined as individuals, usually workers in standard employment relationships⁵ (labour market insiders), covered either through comprehensive public/statutory social protection *or* by public/statutory entitlements, complemented or supplemented by private/occupational social protection to a level that maintains living standards. Outsiders are defined as the (working) poor that would have to rely on modest (largely means-tested) public provision, primarily intended to ameliorate poverty (cf. Seeleib-Kaiser et al., 2012). Since welfare entitlements are mostly linked to labour market status in one way or another, there tends to be a clear correlation between labour market insiders/outsiders on the one hand and social protection insiders/outsiders on the other hand. In other words, it is very likely for a labour market outsider to also be a social protection outsider.

During the era of industrial welfare capitalism, social protection insidership in the US was largely dependent on additional coverage through occupational benefits, which in the industrial sector were often included in collective bargaining agreements. To some extent one might argue that social protection in the US was more heavily dependent on industrial citizenship and occupational social protection than on social citizenship (Marshall, 1950). Up to the mid-1970s, occupational social protection in the US expanded (*Figure 1*). In Germany the harmonization and integration of the various social insurance schemes minimized the depth and breadth of outsidership, leading Leisering (2009) to coin the process as a ‘road to quasi universalism’.

⁵ For a definition see Mückenberger (1985), Standing (2009).

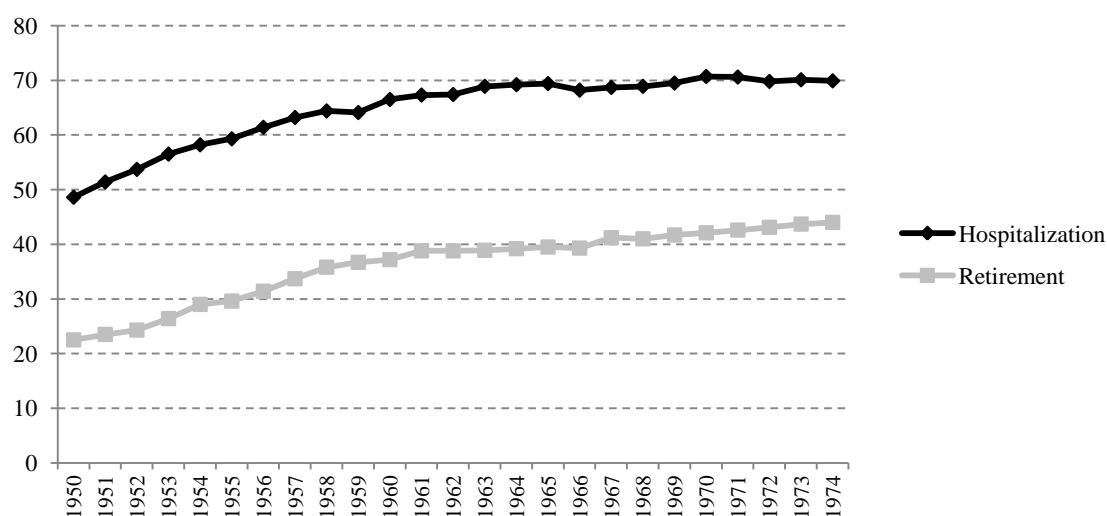


Figure 1. Occupational social protection coverage in the United States: 1950-1974

Note: Hospitalization: Percent of all wage and salary workers; retirement: percent of wage and salary workers in private industry.

Source: Skolnik (1976:9).

These developments become clearer once we take a closer look at the policies insuring against the risks of old age and unemployment. After a late and slow start the American welfare state expanded until the mid-1970s (Berkowitz, 1991). By the mid-1970s, public old-age and unemployment schemes covered an estimated 90 per cent of the American workforce and provided moderate wage replacement rates of approximately 50 per cent for the average worker. These social insurance schemes were complemented by occupational schemes that in combination provided levels of social protection to American workers in key industries similar to those offered through the various statutory or public social protection schemes in Europe. These schemes are highly regulated by the state and supported through tax relief (Jacoby, 1993; Brown, 1999; Howard, 1999; Seeleib-Kaiser, 2001). The overwhelming

majority of occupational pensions were based on the principle of defined benefits⁶ and the average replacement rate for workers formerly employed in the manufacturing sector was 42 per cent during the 1980s, leading to a relatively high combined replacement rate. However, it has to be highlighted that occupational pension coverage differed significantly by industry. Whereas about 79 per cent of workers in the automobile industry were covered, only 9 per cent of workers in the hospitality sector were enrolled in occupational pension schemes in the late 1970s. Public unemployment insurance schemes were based on earnings-related benefits with a maximum duration of 26 weeks.⁷ In some core manufacturing sectors state unemployment insurance benefits were topped up by occupational Supplemental Unemployment Benefits, providing a combined replacement rate of up to 95 per cent for a maximum duration of 52 weeks (Seeleib-Kaiser *et al.*, 2012).⁸ Combined with relatively strong economic growth and an advantageous position in the international political economy, the expansion of the American welfare system reduced the proportion of social protection outsiders and seemed to be quite effective as the percentage of people living below the *official* poverty rate declined from 22 per cent in 1960 to 12 per cent in 1975 (Seeleib-Kaiser, 2001: 272).

The welfare state in post-war (West) Germany largely rested on the expansion of statutory social insurance schemes. The 1957 pension reform led to significant benefit increases and linked the benefit level to future wage increases. The aim of the reform was to secure the

⁶ Defined benefits provide a specific predetermined replacement rate for workers and are intended to provide an incentive for the worker not to change employers, whereby schemes based on defined contributions do not specify the benefit level, but only the level of contribution, and usually have a fairly high degree of portability.

⁷ The duration of benefit receipt was extended through Federal legislation in times of high unemployment.

⁸ Nevertheless, on average only 30-40 per cent of the unemployed received public unemployment insurance benefits, as the long-term unemployed and those with 'weak' labour market attachment were largely excluded and had to rely on very low social assistance benefits or were not entitled to any cash benefits.

achieved living standard and by the mid-1970s the net-wage replacement ratio had reached 70 per cent for a standard worker, i.e. a person with prior average income and a work history of 45 years, leading to a significant decrease in poverty among pensioners. Despite relatively high occupational pension coverage, occupational benefits provided on average rather low replacement rates, approximately 15 per cent for workers in the manufacturing sector, and thus had a rather residual role within the overall social protection arrangements (Seeleib-Kaiser, 2001: 79). The unemployment insurance was also guided by the principle to secure the achieved living standard as well as the maintenance of occupational status protection. Those who did not qualify for unemployment *insurance* benefits were either entitled to unemployment assistance (although means-tested it provided an earnings-related benefit) or social assistance. Nevertheless, as unemployment was largely cyclical and short term, 60-70 per cent of the unemployed were entitled to unemployment insurance benefits at a replacement rate of 68 per cent during the mid-1970s (Bleses and Seeleib-Kaiser, 2004: 14-28).

Social protection in post-industrial welfare capitalism: A story of increased outsidersness and dualization?

Public social protection for pensioners witnessed modest retrenchment during the past three decades in the United States. The comparatively modest 1983 bi-partisan pension reform, which increased contributions, changed benefit taxation and increased the retirement age, was largely intended to stabilize and prepare the pay-as-you-go Social Security scheme for the retirement of the baby-boomer generation (Seeleib-Kaiser, 1993). More important changes occurred in the realm of occupational pension schemes that went largely unnoticed by many welfare state scholars. On the one hand we witnessed a significant decline in overall coverage

and on the other hand a shift of the overwhelming majority of schemes from the principle of defined benefits to defined contributions (Mishel *et al.*, 2009; Katz, 2001; Kruse, 1995). These shifts primarily affected workers with moderate and low levels of education, as shown in *Table 1*. Overall, coverage is very uneven among the various industrial sectors, with relatively high coverage in financial services, intermediate coverage in manufacturing, and low coverage in service sectors primarily relying on low general skills (*Table 2*).

Table 1. Change in private sector employer-provided pension coverage in the US, 1979-2006

	1979	1989	1995	2000	2006	1976-2006
All workers	50.6	43.7	45.8	48.3	42.8	-7.6
By level of education						
high school	51.2	42.9	43.2	43.8	37.1	-14.1
college	61.0	55.4	58.8	63.7	57.0	-3.9

Note: Private sector, wage and salary workers aged 18-64, who worked at least 20 hours per week and 26 weeks per year.

Source: March Current Population Survey Data (Mishel *et al.*, 2009).

Table 2. Occupational pension enrolment by industry in the US, 2010

Group of industry	% of workforce
Manufacturing	65
Construction	45
Services	
finance & insurance	82
retail trade	44
real estate	37
hospitality & food services	12

Source: 'National Compensation Survey, March 2010';
Bureau of Labor Statistics, Department of Labor,
(<http://www.bls.gov/ncs/ebs/benefits/2010/ownership/private/table02a.pdf>)

The German old-age insurance witnessed modest overall reforms until the late 1990s, the most important of which was the reversal of early retirement policies (cf. Ebbinghaus, 2006). Nevertheless, the statutory old-age social insurance system underwent significant reforms since, leading to major reductions in the net-replacement rate, from about 70 per cent to 52 per cent, and a partial privatization (Leisering, 2011). Future pensioners will only be able to enjoy a pension with an approximate replacement rate level of 70 per cent, if they are covered by additional occupational or private arrangements. This change will very likely once again lead to an increase in pensioner poverty in the future (Schmähl, 2007). Although overall occupational pension coverage has increased in all sectors after the pension reform of 2001, coverage in the industrial sectors is very uneven, similar to the US (*Table 3*). As highlighted by Kaufmann (2003: 101) for the United States, public pensions will only provide basic social protection for future pensions in Germany, whilst occupational pensions (plus subsidized and highly regulated private pension plans – the ‘Riester pension’; see Leisering, 2011) will play a core role in securing adequate income protection in old age (for the middle class labor market insiders).

Table 3. Percentage of employees in the German private sector covered by occupational pension plans by industry, 2001-2007

Group of industry	2001	2004	2007
<i>Manufacturing</i>			
production, intermediate goods	43	56	74
mining, quarrying & energy	63	73	73
construction	22	32	42
<i>Services</i>			
finance	76	84	90
wholesale, retail & repair	27	40	46
real estate & business services	16	25	29
hospitality & food services	10	25	28
Total private sector coverage	38	46	52

Source: TNS Infratest Sozialforschung 2008

These developments suggest an increase in the prevalence of social protection outsidership for future pensioners in both countries. The depth of future social protection dualism can be estimated by analyzing prospective replacement rates derived from public and occupational pensions for current workers. Based on OECD simulations, the average American worker enrolled in a voluntary occupational pension plan will have an overall higher replacement rate than the average German worker, although the net-replacement rate of the statutory public old-age insurance continues to be more generous in Germany. Comparing net replacement rates of American workers with and without occupational pension benefits highlights the importance of occupational schemes for the social protection of insiders and the depth of social protection dualism between insiders and outsiders (*Table 4*). However, it should be noted that, as an increasing proportion of occupational pension plans are based on the principle of defined contributions, cohort effects are very likely with regards to the actual replacement rates (Burtless, 2009).⁹ As a result of the economic turmoil since 2008 many funded pension plans have seen a significant decline in their value. According to a survey by the American Association of Retired Persons (AARP) in 2008, 27 per cent of older workers have postponed their plans to retire (Gilbert, 2012: 49).

Table 4. Prospective net pension replacements rates, (Baseline 2012) (%)

	Germany	US
Replacement rate of public system (AW)	55.3	44.8
Replacement rate of public and voluntary occupational pensions (AW)	76.4	88.9

Source: OECD pension models.

(www.oecd.org/pensions/pensionsataglance.htm)

⁹ The replacement rates provided by the OECD should only be considered as indications of potential replacement rates, based on quite optimistic assumptions, if compared with the development of equity and bond markets in recent years.

With regard to unemployment protection, we have witnessed minor changes for the short-term unemployed since the 1980s in the United States (Rubin, 1990: 229-231). Moreover, during the recessions in the 1990s, early 2000s as well as the Great Recession following the financial crisis of 2008, the Federal government has significantly extended the duration of unemployment receipt up to a maximum of 99 weeks (Blaustein, 1993; Weir, 1998; Luo, 2010; Gilbert, 2012: 51), demonstrating its continued support for labour market insiders (see *Figure 2* for the percentage of unemployed receiving benefits). By contrast, however, the Federal government has significantly restricted access to income support for labour market outsiders, e.g. through the 1996 welfare reform, whilst at the same time expanded wage subsidies (Earned Income Tax Credit [EITC]) for low-wage workers (Weaver, 2000).

After years of incrementally reforming the German unemployment insurance system, which largely recommodified labour market outsiders, it has undergone some comprehensive reforms since the late 1990s. During the early 1980s many unemployed lost access to insurance benefits, largely through a process of implicit disentanglement as a consequence of an increase in long-term unemployment; this trend was only temporarily interrupted through the extension of unemployment benefit duration for older workers in the mid-1980s and German unification (*Figure 2*). Nevertheless, at the same time unemployment and social assistance were made more conditional. In 1997 the occupational status protection for those workers unemployed for more than 6 months was abolished; this was followed in 2004/05 by a significant reduction in unemployment benefit duration from a maximum of 32 months to 24 months for older workers and limiting the regular benefit duration to 12 months. Furthermore, the unemployment assistance and social assistance programs were integrated into one means-tested jobseekers benefit (for a more detailed overview of the various reforms cf. Bleses and Seeleib-Kaiser, 2004; Seeleib-Kaiser and Fleckenstein, 2007). The successive reforms, combined with the increase in long-term unemployment, have led to a convergence of the

German unemployment compensation system to the American system, substantially increasing the percentage of social protection outsiders (*Figure 2*), as less than 40 per cent of the unemployed receive earnings-related unemployment insurance benefits. However, it has to be emphasized that most US states have neither unemployment assistance nor general social assistance programs supporting the unemployed.

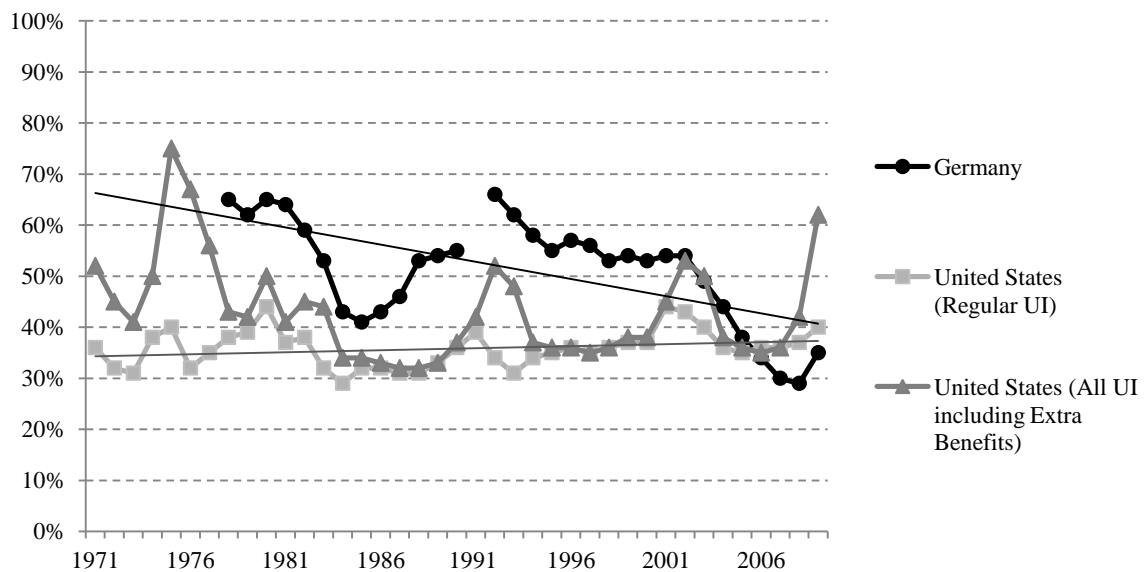


Figure 2. Percentage of unemployed receiving unemployment insurance (UI) benefits

Source: Seeleib-Kaiser *et al.* (2012)

Furthermore, it has to be emphasized that the German government and companies have in the past employed the short-time work allowance to protect labour market insiders in times of economic crisis. In short, the short-time work allowance is basically a state subsidy to support workers with reduced working hours due to a cyclical decline in demand. Especially during the economic crisis in the years of 2008 and 2009, the German government expanded the short-time work allowance program of which especially companies in the manufacturing

sector made extensive use (*Figure 3*). During its peak about 0.5 million workers, or 1.2 per cent of the workforce, were protected from unemployment through the scheme.

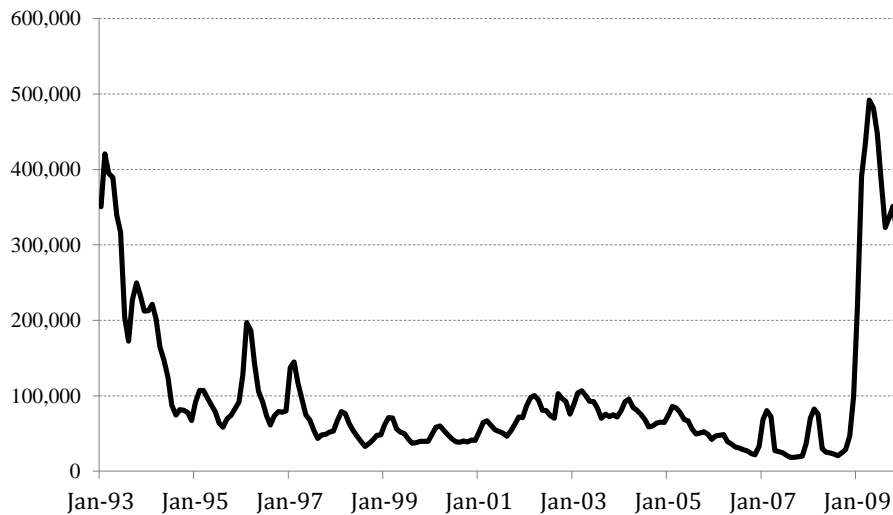


Figure 3. Workers on short-time work allowance (full-time equivalent, FTE), 1993-2009

Source: Statistik der Bundesagentur für Arbeit: Leistungen nach dem SGB III, Betriebe mit Kurzarbeit, Kurzarbeiter, durchschnittlicher Arbeitsausfall in % und Vollzeitäquivalent, Monatszahlen, Nürnberg, Zeitreihe

An analysis of the net replacement rates for unemployed workers in various household types and income groups demonstrates that for the short-term unemployed, and especially for those with below average incomes, both the American and the German system offer relatively similar income protection. Although a greater percentage of the long-term unemployed in Germany have become reliant on means-tested benefits, the comparative analysis also demonstrates that the depth of social protection dualism between the short-term and long-term unemployed is less pronounced in Germany than in the US (*Tables 5*). In this context it has to be highlighted that the United States do not have a non-categorical federal social assistance scheme; needy long-term unemployed workers are largely only entitled to Food Stamps, as in recent years the overwhelming majority of US states have severely restricted or abolished the access for unemployed workers to state-run General Assistance programs (Schott and Cho,

2011). Hence, the overwhelming majority of long-term unemployed workers without children do not have *any* access to cash transfers. By contrast, in Germany, according to the legal interpretation by the Federal Constitutional Court of Article 1 (human dignity) in conjunction with Article 20 (the constitutional requirement of Germany to be a ‘social state’) of the constitution, every legal resident in Germany, independently of the cause of hardship and destitution, is entitled to a state-provided minimum level of subsistence (see BMF, 2005).

Table 5. Net replacement rates for short-term and long-term unemployment by wage and household types (%)

Wage / household types	Short-term unemployed				Long-term unemployed			
	Germany		United States		Germany		United States	
	2001	2008	2001	2008	2001	2008	2001	2008
<i>Workers with 67% of average wage</i>								
<i>- low wage</i>								
No children								
single person	61	59	62	62	58	48	9	9
married couple with one earner	64	61	63	61	69	62	16	16
married couple with two earners	89	88	81	81	71	59	53	54
Two children								
lone parent	79	77	55	53	83	78	43	40
married couple with one earner	81	78	55	51	81	80	50	47
married couple with two earners	93	92	84	84	75	64	61	63
<i>Workers with average wage</i>								
No children								
single person	60	60	54	55	54	36	6	6
married couple with one earner	60	59	55	55	54	46	11	11
married couple with two earners	86	85	72	73	70	50	43	44
Two children								
lone parent	72	70	53	53	64	61	33	32
married couple with one earner	76	72	52	51	65	63	39	38
married couple with two earners	91	89	74	75	74	55	50	52
Mean	76	74	63	63	68	59	35	34

Note: Data for long-term unemployment refer to the 60th month of benefit receipt.

Source: OECD, Tax-Benefit Models

(http://www.oecd.org/document/3/0,3746,en_2649_34637_39617987_1_1_1_1,00.html#statistics)

The analysis of the policy developments in the realms of old-age and unemployment protection have shown the potential increase of future pensioner outsidership in the US, largely through a decline in occupational pension coverage, and the continuance of social protection dualism in case of unemployment, with especially low support for long-term unemployed workers. For Germany we witness a process of social protection dualization, encompassing a widening and deepening of social protection dualism in the realms of pensions and unemployment. The widening and deepening of social protection dualism in the domain of unemployment protection coincides with a significant increase in low-wage work in Germany. It would seem plausible that these two developments are causally related. While the incidence of low pay has remained stable at about 25 per cent in the US, it has significantly increased in Germany, rising from 13.6 per cent of the workforce in 1996 to more than 20 per cent in 2010 (*Table 6*).

Table 6. Incidence of low pay (%)

	1996	2000	2006	2008	2009	2010
Germany	13.6	15.9	17.5	21.5	20.2	20.5
United States	25.1	24.7	24.2	24.5	24.8	25.3

Note: Low pay is defined as defined as the share in total dependent employment of workers earning less than two-thirds of median earnings.

Source: OECD Employment Outlook 2008, 2010, 2011, 2012

Converging, but still different

In the previous section it has been argued that from an institutional perspective the two welfare systems have converged, largely due to changes in the German unemployment and pension systems. The effect of the pension reform in Germany is essentially limited to future generations of pensioners, whereas the effects of the unemployment reforms were more

immediate and are very likely to have contributed to an increase in poverty among the long-term unemployed.¹⁰

Nevertheless, outcomes with regard to the social protection of outsiders continue to starkly differ and can be interpreted as a result of a lacking legal entitlement to unemployment assistance or a non-categorical minimum social protection in the US. Thus, it is no surprise that more than 10 per cent of the US population lives in extreme poverty (less than 40 per cent of median income), whereas this is ‘only’ the case for about 4 per cent in Germany (*Table 7*).

Table 7. At-risk-of-poverty rates (post tax and transfer)

	40 % of the current median income				60 % of the current median income			
	mid-80s	mid-90s	mid-2000s	late 2000s	mid-80s	mid-90s	mid-2000s	late 2000s
Germany	2.6	3.6	3.7	4.2	12.0	12.7	14.7	14.8
United States	11.8	11.8	11.3	11.3	23.8	23.7	23.7	24.4

Source: OECD.stat; <http://stats.oecd.org/Index.aspx?DatasetCode=POVERTY>

However, it is not only the case that the United States widely lack public support for the long-term unemployed; moreover, US politicians have pursued a policy of mass incarceration in recent decades, leading to 743 per 100.000 inhabitants to be behind bars (2009), whereas the rate for Germany is 85 per 100.000 (2010). This process is historically and internationally unprecedented. Between 1925 and 1975, on average about 100 out of 100.000 Americans were incarcerated; currently, no other western democracy incarcerates so many people. In Western Europe we find the highest rate in England/Wales, with an incarceration rate of 153 per 100.000 inhabitants (2011). Rwanda with 595 and Russia with 568 prisoners per 100.000

¹⁰ As already stated at the beginning of this paper, the focus taken here is limited to cash transfers for the unemployed and pensioners and does not cover the many other elements and dimensions of the ‘social’, for instance labour law or social services.

seem to be the closest ‘competitors’ in the ‘race’ to incarcerate (Walmsey, 2011). In this context it has to be highlighted that the US prison population has very similar socio-demographic characteristics as the long-term unemployed in Europe (Western and Beckett, 1999; Western, 2006). According to Western (2006: 3), 30 per cent of black men born in the late 1960s and with no more than high school education had served time in prison; 60 per cent of black male school drop-outs had prison records. Wacquant (2006) maintains that there is a clear association between ‘neo-liberal’ welfare reforms and increased incarceration.

Conclusions

In the US and Germany the extent and depth of social protection outsidersness declined during the *Trente Glorieuses*. Whereas one might speak of a trend towards quasi universalism in Germany, as Leisering (2009) does, a comparatively high degree of social protection dualism continued to persist in America. Deindustrialization has unsettled the social protection arrangements in the US and Germany and significantly contributed to a reversal of the post-WW II trend. In the US, the depth of social protection dualism has increased for people of working age: The 1996 welfare reform has significantly retrenched the social protection for lone parents; in addition the overwhelming majority of states has significantly retrenched or even abolished its General Assistance programs for the unemployed. Furthermore, we will very likely witness an increase in future pensioner outsidersness, largely due to a decline in occupational pension coverage. A significant widening and deepening of social protection dualism in the realms of pension and unemployment protection have characterized the German statutory social protection system. For future pensioners the reformed German system will be quite similar to the American system, with huge differences in old-age income between those with and those without occupational pension benefits. For the long-term

unemployed the German system has converged towards the American model with the overwhelming majority of unemployed workers not entitled to social insurance benefits, but either reliant on means-tested or no benefits.

By including occupational social protection in our analysis and analysing the data through the lens of social protection dualism, we can identify a process of convergence between the Conservative German and the Liberal American model that could not be identified as clearly, by a simple analysis of welfare state spending, welfare state generosity measures solely based on the average (production) worker, or an analysis of the institutional arrangements of public social policies. It seems very plausible that processes of deindustrialization and the perceived necessities of globalization that have coincided with a decline in the significance of partisanship in Germany have contributed to the unsettling of the previous institutional arrangements (Seeleib-Kaiser *et al.*, 2008; Seeleib-Kaiser *et al.*, 2012).

However, the main difference between the two welfare systems no longer primarily manifests itself in the institutional design of arrangements insuring against (short-term) unemployment or old age, which have been the focus of much of the comparative social policy and welfare state literature, but in the fundamental conceptualization of social citizenship rights. Social citizenship rights for the most unfortunate of society distinctively differ between the American and German welfare state. This testifies to Kaufmann's analysis of the USA as 'capitalism' which lacks collective welfare responsibility for all citizens as compared to Germany conceived as 'welfare state'. The very low replacement rates for long-term unemployed workers in the United States reflect the fact that, de facto there is no social protection system for poor people of working age, whilst in Germany the state has the constitutional obligation to provide a minimum of subsistence to every person in need. Moreover, the 'illiberal' *Gestalt* of the American state vis-à-vis poor people goes much

further than the ‘illiberal social policy’ dimensions included in many workfare programs (King, 1999), as its main component for young poor black men seems to be the criminal justice system. To conclude with Parenti (2000: 168): “the criminal justice build-up is a bulwark against the new dangerous classes because it absorbs and controls them and extends its threat onto the street.” This approach is much more brutal and existentialist than the regulating function of social policy, identified by neo-Marxist scholars decades ago (Piven and Cloward, 1971). Western (2006: 193 f.) highlights: “The mass-imprisonment generation of poorly educated black men born after 1965 suffer the civil disabilities that restrict their social rights to welfare and certain occupations and political rights to the franchise. ... These individuals and their families are excerpted from the ‘basic human equality’ that Marshall associated with full membership in a community.”

As a historically and internationally unprecedented proportion of poor Americans end up in prison, we need to refocus our analysis and can no longer exclude the penal system from our comparative analysis of welfare arrangements. For many social protection outsiders the residual American welfare state was transformed into a penal state! Kaufmann was right in noting that the US as a country has no comprehension of public responsibility for the basic aspects of well-being for *all* citizens – and this manifests itself most prominently not in the way Americans organise their pension or unemployment insurance systems, but in the way social protection outsiders are treated.

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