

# #GIDSstatement 7 / 2025

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An Assessment in the Context of Germany's Constitution  
and Security Policy

#GIDSstatement | No. 7 / 2025 | August 2025 | ISSN 2699-4372

The German National Library lists this publication in the German National Bibliography; detailed bibliographic information is available online at <http://dnb.dnb.de>.

ISSN 2699-4372

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Recommended citation:

Christian Richter, Conscription Women? An Assessment in the Context of Germany's Constitution and Security Policy, #GIDSstatement 7/2025, GIDS: Hamburg.

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# Conscripting Women?

## An Assessment in the Context of Germany's Constitution and Security Policy

### Introduction

The discussion of compulsory military service has been rekindled in Germany after the last federal election. One essential aspect of this intensive debate is the question as to whether a potential reintroduction of conscription should include women. It seems, however, that not enough attention has been paid to constitutional aspects and security considerations in this debate, particularly as Germany's Basic Law (*Grundgesetz*) still restricts compulsory military service to men and a constitutional amendment, requiring special majorities in the German Parliament (*Bundestag*), is not an easy thing to achieve. Moreover, the need to extend conscription to women is not necessarily evident from a security perspective. In addition, such an extension might indirectly undermine the imperative of conscription equity, if compulsory military service were indeed to be reinstated. Furthermore, conscripting women for military service does not seem to be in line with the socio-political task of promoting equal rights of men and women.

### Compulsory Military Service for Men in the Basic Law

On 21 July 1956, less than a year after the foundation of the Bundeswehr, the young Federal Republic of Germany adopted the Compulsory Military Service Act (*Wehrpflichtgesetz*), thus introducing universal conscription.<sup>1</sup> This measure was taken mainly for Alliance policy reasons. Under the auspices of NATO, Germany and its partners agreed on the number and size of units the Bundeswehr was to provide to the European Defence Community (EDC).<sup>2</sup> Although the EDC Treaty did not specify the exact number of soldiers to be provided, the Federal Ministry of Defence in Bonn assumed it to be about 500,000 soldiers.<sup>3</sup> After the failure of the EDC, Germany informed NATO that it had committed itself to establishing armed forces with a total

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1 For details cf. Boehm-Tettelbach, marginal 20.

2 Meier-Dörnberg 1994: 110.

3 Meier-Dörnberg 1990: 514.

strength of 500,000 active soldiers within two years.<sup>4</sup> This could not be achieved without introducing compulsory military service.<sup>5</sup>

The constitutional basis for the Compulsory Military Service Act was established by an amendment to Article 73 No. 1 of the Basic Law in March 1954:

The Federation shall have exclusive legislative power with respect to foreign affairs and defence including compulsory military service for men who have attained the age of eighteen years and protection of the civilian population.<sup>6</sup>

Thus, the Federation exercised its legislative power to limit compulsory military service to men – in accordance with historical models and common practice in almost all other states at the time. The notion of females joining the Bundeswehr was absolutely out of the question. Across party boundaries, politicians agreed that women should not serve in the German armed forces.<sup>7</sup> Accordingly, the restriction to men was also included in Section 1 (1) of the Compulsory Military Service Act in 1956: ‘All men from the age of 18 are liable to compulsory military service.’<sup>8</sup>

It was not before 1968 that conscription was constitutionally enshrined in the Basic Law when Article 12a was introduced as part of Germany’s emergency legislation.<sup>9</sup> Article 12a (1) of the Basic Law continued to restrict compulsory military service to men:

Men who have attained the age of eighteen may be required to serve in the Armed Forces, in the Federal Border Police, or in a civil defence organisation.

Since, however, it was assumed that the need for assistant personnel in the civilian hospital system and in military hospitals could not be met during a state of defence, Article 12a (4), first sentence, of the Basic Law imposed the obligation on women to provide civilian services in these areas if necessary.<sup>10</sup> In addition, Article 12a (4), second sentence, of the Basic Law in the version of 1968 stated unequivocally that women were ‘under no circumstances’ allowed to render service involving the use of arms.

In 2011, conscription was suspended by a simple majority vote in Parliament. The Compulsory Military Service Act was revised accordingly, with Section 2 stating that conscription will only be reactivated when a state of tension or defence arises. Therefore, the stipulations regarding conscription laid down in Article 12a of the Basic Law have remained unchanged. Thus, in case of a re-introduction of conscription – either by a simple majority vote in Parliament to amend Section 2 of the Compulsory

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<sup>4</sup> Meier-Dörnberg 1994: 108.

<sup>5</sup> The actual strength of Germany’s forces never reached the envisaged manpower level of 500,000, though. It was not until the end of the 1960s that the number of troops came close to this benchmark, cf. Henrich 2025.

<sup>6</sup> [Translated from the German original] as cited in Boehm-Tettelbach, marginal 19.

<sup>7</sup> Seifert 1994: 179.

<sup>8</sup> [Translated from the German original:] Bundesgesetzblatt [Federal Law Gazette] 1956, Part I, p. 652.

<sup>9</sup> Boehm-Tettelbach, marginal 22.

<sup>10</sup> Doebling 1997: 45.

Military Service Act or by the declaration of a state of tension or defence – the restriction to men would remain in place.

## Equal Rights?

Politicians across party boundaries have called for conscription to be extended to women, should it be reinstated in Germany, justifying their demands with equal rights for men and women.<sup>11</sup> On closer examination, however, the extension of conscription to women seems to be a matter of equal treatment brought forward by men rather than a matter of equal rights championed by women. By now, women are fully entitled to serve in any post in the armed forces.

Following a ruling of the European Court of Justice (ECJ) in 2000 based on the directive on the implementation of the principle of equal treatment for men and women as regards access to employment<sup>12</sup>, Germany had to open its armed forces to female applicants.<sup>13</sup> For a long time, women had only been allowed to volunteer as telephone operators or secretaries in the Bundeswehr until, in 1975, Germany's armed forces opened their doors a bit wider to women, allowing them to pursue a career as officers in the medical or military music service.<sup>14</sup> At the end of 1990, all careers in the medical and military music service were opened to women.<sup>15</sup> With the eventual decision to open all roles in the Bundeswehr to women, Article 12a (4), second sentence, of the Basic Law was consequently amended as follows: 'Under no circumstances may they be required to render service involving the use of arms.'<sup>16</sup>

## The Constitution is Clear

This means that today, universal conscription (which is currently suspended) applies to men only, while women may serve in the armed forces without any specific restrictions, but do not have to – and must never be obliged to do so. So far, this circumstance, which appears to be an imbalance in the constitution, has not been seriously questioned in Germany.<sup>17</sup> When the armed forces were opened up to the voluntary service of women as a result of the ECJ ruling, the limitation of conscription to men was criticised only sporadically by experts in constitutional law referring to the principle of equal treatment.<sup>18</sup> However, the political argument of an alleged unequal treatment of women and men cannot be based directly on Article 3 of the Basic Law:

<sup>11</sup> For the earlier discussion in 2024 cf. only Decker 2024.

<sup>12</sup> The full title is: 'Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions'.

<sup>13</sup> Cf. Judgment of the European Court of Justice of 11 January 2000, Tanja Kreil v Federal Republic of Germany, Case C-285/98.

<sup>14</sup> Frevert 2001: 353.

<sup>15</sup> Mehde, Art. 12a, marginal 43 (with further references).

<sup>16</sup> Ekardt 2001: 1171.

<sup>17</sup> Sachs 2000: 413.

<sup>18</sup> Cf. Ekardt 2001: 1171 ff.; Sachs 2000: 413 ff.

With Article 12a of the Basic Law, the constitutional legislator has created either a *lex specialis*<sup>19</sup>, i.e. a special regulation, or an exemption<sup>20</sup> from Article 3 (2) and (3) of the same law, depending on interpretation. Either way, Article 12a has the same constitutional status as Article 3 of the Basic Law, which means the two cannot be measured against each other. Thus, there is no violation of higher-ranking law.<sup>21</sup> The Federal Constitutional Court (*Bundesverfassungsgericht* – *BVerfG*) pointed this out as early as 1960 with regard to the exclusive legislative power stated in Article 73 (1) of the Basic Law (old version):

That the limitation of conscription to male citizens does not represent a violation of the constitution results from Articles 73 No. 1 and 12 (3) of the Basic Law and does not require further explanation. These provisions have the same constitutional status as Article 3 (2) and (3) of the Basic Law; they would thus be justified, even as an exemption, if – and this point does not need to be decided – conscription for men were considered a ‘disadvantage’ in the sense of Article 3 (3) of the Basic Law.<sup>22</sup>

Since the insertion of Article 12a in the Basic Law represented an amendment to the constitution, the substantive basis of the law underlying this constitutional amendment has to be measured against the eternity clause under Article 79 (3) of the Basic Law. According to this clause, constitutional amendments that would change the norms and principles listed in Article 79 (3) of the Basic Law are not admissible. The highly exceptional nature of this norm and the restriction of popular sovereignty call for a narrow interpretation.<sup>23</sup> In principle, three aspects could be considered here: the prohibition of arbitrariness, human dignity and the principle of democracy.<sup>24</sup> It is not clear how the principle of democracy or human dignity would be violated by restricting conscription to men.<sup>25</sup> The prohibition of arbitrariness, which is derived from the principle of the rule of law, is violated particularly if one group of norm addressees is treated differently than another, even though there are no differences between those two groups that are considerable enough to justify such differential treatment.<sup>26</sup> The biological differences between men and women are obvious. In particular, there is evidence proving that men have greater average muscle strength<sup>27</sup> and a generally higher potential for aggression<sup>28</sup>. These aspects could justify a differentiation. A violation of the prohibition of arbitrariness can therefore be ruled out as well. Occasional attempts to link Article 3 of the Basic Law to the eternity clause laid down in Article 79 (3) of the Basic Law<sup>29</sup> have not been successful, simply because Article 1 is

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<sup>19</sup> Hummel, Art. 12a, marginal 5 (with further references).

<sup>20</sup> Blome 2012: 43 (with further references).

<sup>21</sup> Mehde, Art. 12a, marginal 45 (with further references).

<sup>22</sup> [Translated from the German original:] BVerfGE [Decision of the Federal Constitutional Court] 12, 45 (52 f.).

<sup>23</sup> Kment, Art. 79, marginal 9.

<sup>24</sup> Sachs 2000: 413.

<sup>25</sup> Certain doubts, however, are expressed by Sachs 2000: 410 ff.

<sup>26</sup> Nußberger/Hey, Art. 3, marginal 13.

<sup>27</sup> Ekardt 2001: 1175.

<sup>28</sup> Sachs 2000: 411.

<sup>29</sup> Cf. Ekardt 2001: 1174 ff.

the only article from the part of the constitution concerning basic rights that is explicitly mentioned in the eternity clause.<sup>30</sup> Therefore, the legal situation is clear.

## Lack of Majority Support for Constitutional Amendment

Including women in compulsory military service is not possible without a prior amendment to the Basic Law. Such a constitutional amendment would require a two-thirds majority in Parliament, which the coalition of Conservatives (CDU/CSU) and Social Democrats (SPD) does not have.<sup>31</sup> Even with the votes of the Green Party (*Bündnis 90/Die Grünen*), the coalition would still fall short of the two-thirds majority.<sup>32</sup> That the ruling parties' parliamentary groups would accept votes from the political fringes to achieve the necessary majority on this matter is more than unlikely. Therefore, we will not see an amendment to Article 12a (1) and (4), second sentence, of the Basic Law in this legislative period. The current discussion about extending conscription to female German citizens is thus mostly shadow fighting between political parties.

## Compulsory Military Service for Women in Other Countries

Aside from the above, the equal treatment of men and women is such an important socio-political issue that adhering to the limitation of conscription to men requires legal justification.<sup>33</sup> Moreover, there are tendencies in Europe towards extending conscription to women. Denmark, for example, just recently introduced conscription for women.<sup>34</sup> The extension of conscription to female Danish citizens was originally planned for 2027. Given Washington's security stance of March 2025, however, the Danish government decided to conscript women into the military one year earlier than planned and to increase the duration of military service to eleven months.<sup>35</sup>

All in all, there are twelve countries in the world that require women to serve in their armed forces. In addition to Sweden, Norway and Denmark in Europe, these are Eritrea, Mali, Morocco, North Korea, Tunisia, Benin, Cabo Verde, Mozambique and Israel in other parts of the world. In Sudan and Vietnam, it is legally possible to draft women, but in practice only men are called up. And in some states without active conscription schemes, such as Myanmar, Chad, Ivory Coast and Portugal, the relevant legal provisions include women, which means they would be called up if conscription were reintroduced.<sup>36</sup>

<sup>30</sup> Mehde, Art. 12a, marginal 46 (with further references).

<sup>31</sup> Cf. Article 79 (2) of the Basic Law.

<sup>32</sup> Deutscher Bundestag [German Bundestag] 2025.

<sup>33</sup> As pointed out before by Hummel, Art. 12a, marginal 8.

<sup>34</sup> FAZNET 2025.

<sup>35</sup> WELTONLINE 2025.

<sup>36</sup> DeSilver 2019.

## Scandinavian Countries

From a socio-political perspective, the Scandinavian countries are relatively similar to Germany, with Denmark and Sweden also being EU member states. Sweden, however, uses a much narrower definition of equal treatment than Germany. Moreover, the Scandinavian countries have a much lower population density – an argument in favour of keeping the pool of potential conscripts as large as possible.

## Israel

From a security point of view, however, Israel is a more interesting subject. While similar to Europe's Western democracies in terms of socio-political aspects, the country is shaped by an intensive and continuous experience of war.

Israel has been surrounded by hostile states ever since its foundation on 14 May 1948. On the very next day, it was attacked by the armed forces of Egypt, Jordan, Syria, Lebanon and Iraq.<sup>37</sup> Israel thus saw itself forced to build up armed forces in the field<sup>38</sup> even though military organisations such as Haganah, Etzel and Lehi had existed since before the state of Israel was founded.<sup>39</sup> Since then, Israel has been involved in international armed conflict about every nine years.<sup>40</sup> All of Israel's potential adversaries have significantly higher population numbers than Israel itself.<sup>41</sup> In addition, Israel is a relatively small state with little strategic depth and no alliance affiliation. It is for these reasons that the reserve component of the Israel Defense Forces (IDF), and thus conscription, is so immensely important for the country.

Against this background, it is only logical that compulsory military service in Israel also applies to women. In fact, this has been the case since 15 May 1948, when Israel needed every citizen to successfully defend itself against the invasion of its neighbouring Arab states.<sup>42</sup> However, it was not until 1949 that the requisite law on compulsory military service was adopted by the Knesset. With only minor changes made since then, the law still applies today requiring both men and women to serve in the IDF.<sup>43</sup>

Initially, men and women had to serve for the same time period: 24 months. Later, the duration of military service for men was increased, first to 30 months, then to 36 months, and eventually shortened again to 32 months.<sup>44</sup> A further reduction to 30 months for men has been discussed but not implemented.<sup>45</sup> So the current duration of military service is 32 months for men and 24 months for women.<sup>46</sup> Thus, Israel differentiates between women and men as regards the duration of military service. It is remarkable that despite Israel's existential fight against Hamas in Gaza and the growing threat at its northern border, the country has not only continued to differentiate between

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<sup>37</sup> Bundeszentrale für politische Bildung [Federal Agency for Civic Education] 2023.

<sup>38</sup> Urban 2010: 418.

<sup>39</sup> Urban 2010: 418 f. (with further references).

<sup>40</sup> Urban 2010: 422.

<sup>41</sup> Cf. Weitz 2007: 97.

<sup>42</sup> Luttwak/Shamir 2023: 91.

<sup>43</sup> Van Creveld 1994: 229.

<sup>44</sup> Luttwak/Shamir 2023: 92.

<sup>45</sup> Elran et al. 2021.

<sup>46</sup> The Israel Defense Forces (n.d.) [author's note: 2025].

women and men with regard to compulsory military service but also begun to conscript ultra-Orthodox Jews into the IDF in July 2024,<sup>47</sup> who, until then, they had been exempted from military service. Furthermore, Israel not only differentiates between men and women with regard to the duration of compulsory military service but also with regard to the range of exemptions. In addition to women who live by strict religious rules, for example, female citizens who are married or have children are also exempted from military service.<sup>48</sup>

The IDF also differentiates as to the branches in which men and women can serve. While initially women and men were fighting side by side, the increasing level of organisation within the IDF subsequently led to an employment of women in selected functions only. After their basic training, women were employed as radio operators, secretaries or medics or were given other staff assignments. With the Yom Kippur War of October 1973, however, it became obvious that the IDF had far fewer troops than its Arab adversaries. As a consequence, the IDF transferred personnel from its support forces to the combat troops. In this context, the IDF also allowed for female instructors to train combat forces. As it turned out, women often did a better job than male instructors. They were better able to find a balance between discipline and sensitivity when working with young conscripts.<sup>49</sup>

After a border police unit employed in counterterrorism activities had successfully integrated women, the IDF followed suit and founded the 33<sup>rd</sup> (Caracal) Battalion in 2000, tasking it with ensuring border security. In 2021, more than half of the battalion's personnel were female soldiers. Thanks to the example of the Caracal Battalion and other mixed border patrol battalions, infantry combat forces received more training time. After the IDF leadership decided that women should also serve in traditional combat units, the Caracal Battalion was sent into combat for the first time. The battalion was deployed to engage ISIS fighters who had infiltrated from Sinai and successfully defeated them.<sup>50</sup> This success led to the formation of two additional mixed light infantry battalions, modelled on the Caracal Battalion: the 'Lions of Jordan' and the 'Cheetah Battalion' in 2014 and 2015, respectively.<sup>51</sup> Today, about nine out of ten posts in the IDF are open to women. The proportion of female soldiers in combat units is around 20 percent.<sup>52</sup> This shows that the IDF does not send female soldiers *en masse* into existing units but takes care to ensure gender balance. The aim is to reduce the impact of physiological differences, especially with regard to upper body strength. In addition, those battalions are specially equipped compared to other Israeli battalions which, for example, have large communal tents and outdoor showers only.<sup>53</sup>

The success of this approach seems to prove the IDF right. For instance, the Caracal Battalion, under the command of Lieutenant Colonel Or Ben Yehuda, proved particularly effective in the fight against Hamas terrorists during the attack of 7 October

<sup>47</sup> Cf. Dake 2024.

<sup>48</sup> Weitz 2007: 98.

<sup>49</sup> Luttwak/Shamir 2023: 92.

<sup>50</sup> Luttwak/Shamir 2023: 94.

<sup>51</sup> Luttwak/Shamir 2023: 94 (with further references).

<sup>52</sup> Wittenbrink 2024.

<sup>53</sup> Luttwak/Shamir 2023: 94.

2023.<sup>54</sup> In addition, two female tank crews also distinguished themselves by successfully engaging more than 100 Hamas terrorists in hours of fighting.<sup>55</sup>

Thus, it can be stated that women in Israel were included in conscription due to the permanent existential threat the country is facing and the fact that the IDF is massively outnumbered by Israel's adversaries. The objective of Israel's approach is to obtain the best possible results with scarce human resources. Remarkably, Israel nevertheless differentiates as to the parameters for the military service provided by its female citizens. For women, the duration of military service is shorter and they can be exempted from service more easily. They are not generally assigned to combat forces but employed in a targeted manner in carefully balanced mixed units.

## Security Challenges to Germany

Germany is a member of NATO, the world's most powerful defensive alliance. Therefore, national defence is always collective defence. Moreover, Germany does not share a border with the potential aggressor Russia. As far as numbers are concerned, the European Union alone has a collective population of around 450 million,<sup>56</sup> while Russia's population amounts to around 143 million.<sup>57</sup> Therefore, the security situation that Germany is faced with is fundamentally different.

At the same time, Germany is a land power. Its military strength thus mainly lies with its land forces – and it goes without saying that land forces require a lot of personnel. Consequently, the contribution that Germany will be expected to make in the event of an attack on Alliance territory is significant. Since the last NATO summit, it has become clear that Germany will need up to 60,000 additional soldiers to build up its active force.<sup>58</sup> At the same time, it is necessary to develop a strong reserve for a Bundeswehr that is both sustainable and capable of augmentation.<sup>59</sup>

This must be viewed against a yearly potential of approximately 700,000 live births to mothers of German nationality<sup>60</sup> plus those live-born children whose fathers are German nationals. Approximately 350,000 of these children are likely to be male. From these, one must deduct those who are not medically fit to serve, those exempted from military service for other reasons and those who refuse to render military service. Experience has shown that about half of every male age cohort fall into one of these categories.<sup>61</sup> This leaves us with a pool of about 175,000 male German nationals who would start their compulsory military service each year.

Consequently, the pool of potential male conscripts is large enough to quickly provide the German armed forces with the required personnel resources and to build up

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<sup>54</sup> The Jerusalem Post 2023.

<sup>55</sup> Wittenbrink 2024.

<sup>56</sup> Urmersbach 2025.

<sup>57</sup> Statistisches Bundesamt [Federal Statistical Office] 2022.

<sup>58</sup> Tagesschau 2025.

<sup>59</sup> Cf. Mühle 2024.

<sup>60</sup> In 2024, for example, there were 677,117 live births to mothers of German nationality, cf. Statistisches Bundesamt [Federal Statistical Office] 2025.

<sup>61</sup> Cf. BMVg [Federal Ministry of Defence] 1994: 97.

a sustainable reserve. Given these data and the current security situation, extending conscription – if it were to be reinstated – to women would not be necessary.

## The Imperative of Conscription Equity

For several years, following the principle of voluntariness has not been enough to meet the Bundeswehr's personnel demands. In light of this, the reintroduction of compulsory military service seems almost inevitable. Should political majorities change and a constitutional amendment be made extending conscription to women, the question of conscription equity would come up again.<sup>62</sup> Aside from the armed forces' personnel requirements, conscription equity is a central constitutional demand on conscription practice.<sup>63</sup> It results from the principle of imposing equal burdens and obligations on all citizens expressed in Article 3 of the Basic Law.<sup>64</sup> Conscription equity requires that all conscripts available under the legal provisions are actually drafted for military or alternative service, apart from an administratively unavoidable rest ('*Ausschöpfungsrest*'<sup>65</sup>). According to the Federal Administrative Court (*Bundesverwaltungsgericht* – *BVerwG*), administrative exemptions from military service in the form of administrative instructions are clearly unconstitutional. Exemptions from military service are only permitted as per the German Compulsory Military Service Act.<sup>66</sup> Some experts argue that 'universal' conscription would become unconstitutional with regard to conscription equity if half of the available conscripts of a given year were not drafted, as this would obviously render conscription non-universal.<sup>67</sup> According to the Federal Administrative Court and relevant literature, precise quantitative requirements according to which a certain proportion of an age cohort must be drafted for military service cannot be derived from the imperative of conscription equity.<sup>68</sup> However, the Federal Administrative Court has also stated that there is a risk of violating conscription equity 'if the number of members of an age cohort who actually perform military service falls well short of the number of conscripts available in that age group.'<sup>69</sup> Whether the Federal Constitutional Court would share this view is unclear as there has been no ruling on this issue. With the extension of conscription to women, the number of available conscripts would, at least in theory, roughly double. The inclusion of women in compulsory military service would thus undermine, if not dismantle, the imperative of conscription equity. The only way to avoid this problem would be to impose selective conscription by law, taking the

<sup>62</sup> For basic information on conscription equity see Blome 2012 and Fleischhauer 2007, and more recently also Weingärtner 2025.

<sup>63</sup> Mehde, Art. 12a, marginal 78.

<sup>64</sup> Cf. only BVerfGE [Decision of the Federal Constitutional Court] 48, 127 (159, 162).

<sup>65</sup> [Translator's note: The German term refers to the number of conscripts who cannot be called up for basic military service, even though they would have been available, because they have reached the age limit of 25 years.]

<sup>66</sup> Gornig, Art. 12a, marginal 11.

<sup>67</sup> Voland 2004: 453, 457 f.; Fleischhauer 2007: 171ff.

<sup>68</sup> Cf. BVerwGE [Decision of the Federal Administrative Court] 122, 331 (338); Mehde, Art. 12a, marginal 80; Hummel, Art. 12a, marginal 11; Unterreitmeier 2007: 163, 165.

<sup>69</sup> [Translated from the German original:] BVerwGE [Decision of the Federal Administrative Court] 122, 331 (338 f.).

imperative of conscription equity into account and imposing, for example, some kind of conscription fee on non-conscripts.<sup>70</sup>

## Socio-Political Aspects

On average, women spend around 44.3 percent more time on unpaid care work per day than men. This includes activities in housework, childcare and care of family members, but also voluntary work.<sup>71</sup> Disregarding this fact and placing an additional burden on women by including them in conscription cannot be justified by the idea of gender equality. Moreover, taking into account this de facto imbalance of obligations does not, in itself, reinforce outdated gender roles.<sup>72</sup> In our constitutional order, women and men are free to choose their own roles. Especially with regard to the armed forces, this is absolutely possible as all posts are open to women, too.

Furthermore, it must not be forgotten that, as a matter of biology, only women can bear children.<sup>73</sup> Of course, a liberal constitutional state must never force women to have children. At the same time, however, the constitution does enable the state to create favourable circumstances for young women to have children, hoping that they will use them. With the introduction of parental benefits, an important step in this direction was taken.<sup>74</sup> Accordingly, it is hard to see why the state should not generally exempt women from conscription or – in times of existential military threat, as experienced by Israel – define significantly shorter periods of military service for them. The inclusion of women in conscription would undoubtedly be an additional burden for them and detrimental to starting a family, thus undermining measures to increase the birth rate in Germany. This holds particularly true given that compulsory military service does not end with the completion of basic military service. It is a matter of fact that the continuation of state and society is not conceivable without women. Consequently, the constitutional legislator should be entitled to restrict conscription to men in the future, too.<sup>75</sup>

In Austria, a recent discussion about extending conscription to women was quickly ended by Minister of Defence, Klaudia Tanner, who – in agreement with both the government and the opposition – pointed at the existing inequality in different areas of life.<sup>76</sup>

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<sup>70</sup> Cf. Richter 2024: 4.

<sup>71</sup> Statistisches Bundesamt [Federal Statistical Office] 2024.

<sup>72</sup> A different view is advocated by Sachs 2000: 413.

<sup>73</sup> Sachs 2000: 413 explicitly advocates against taking this circumstance into account.

<sup>74</sup> Cf. Bekanntmachung der Neufassung des Bundeselterngeld- und Elternzeitgesetzes vom 27. Januar 2015 [revised version of the Parental Allowances and Parental Leave Act of 27 January 2015], Bundesgesetzblatt [Federal Law Gazette] 33, Part I, G 5702, 2015 issued at Bonn on 29 January 2015 No. 3, p. 33, [https://www.bgbl.de/xaver/bgbl/start.xav#/switch/tocPane?\\_ts=1746436902055](https://www.bgbl.de/xaver/bgbl/start.xav#/switch/tocPane?_ts=1746436902055).

<sup>75</sup> Hummel, Art. 12a, marginals 8 f.

<sup>76</sup> Cf. Wenzel 2025.

## Conclusions

According to the German Basic Law, conscription, though currently suspended, is limited to men. In order to include women, the Basic Law would have to be amended. In the current legislative period, the coalition government lacks the required parliamentary majority for such a constitutional amendment. That the ruling parties' parliamentary groups would accept votes from the political fringes to achieve this majority is more than unlikely. For this reason, the discussion about a possible extension of conscription to women is currently of little practical relevance.

Moreover, conscription for women is globally a notable exception. A country like Israel, which has to defend its existence with military means on an almost permanent basis, obliges women to serve in the military because its forces are vastly outnumbered by its adversaries. But even in Israel, the exception criteria for women are broader and their military service period is shorter. Furthermore, the employment of women in combat forces is partly limited to specially established units.

The security situation Germany is faced with does not require an extension of compulsory military service to women. And if it were extended to women, the number of conscripts would double – which in turn would undermine, if not dismantle, the imperative of conscription equity. Ultimately, the currently unequal distribution of care work between men and women also speaks against an extension of conscription to women as that would not only be unfair but, above all, increase this inequality even further.

As important as the matter of equal rights is – in the conscription debate, it diverts attention from the essential question of whether conscription needs to be reinstated in the first place. For this reason, the debate on extending conscription to women should not be deepened any further at present.

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