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CONCEPTS OF SOCIAL JUSTICE IN THE WELFARE STATE
GREAT BRITAIN AND GERMANY SINCE 1945

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Abstract

Concepts of social justice are at the very heart of the welfare state. From the perspective of the history of institutions, the article reconstructs the principles of justice which underlie the architecture of the social security systems in Great Britain and Germany and analyses how they have changed since 1945. It turns out that in general both welfare states are based on mixtures of different concepts of justice. Parallels can be found above all in the health care systems, which in both countries are based on a combination of two principles – equality of access on the one side and treatment according to one's needs on the other side. There are more significant differences, in contrast, in regard to insuring against unemployment and to pension systems, whereby the British welfare state entails a link between the norms of equality and of neediness, whereas in Germany the principle of the equivalence between contributions and benefits is deeply rooted. All path-dependencies notwithstanding, a convergence in the institutional arrangements of both welfare states can be traced over the last decades. In Britain as well as in Germany means-tested benefits and thus the principle of neediness became increasingly important, most notably in the field of unemployment benefits. At the same time, both welfare states experienced the rise of new concepts of justice starting from non-class groups like families, women or generations.

Keywords

Social justice, welfare state, institutions, Great Britain, Germany

I

Justice is one of the central norms of modern, democratic welfare states. As the welfare state was invented by man, it is therefore in need of legitimation, unlike nature, which cannot be made to answer for its distribution of strengths and weaknesses, but like the market, the other important agency of distribution in modern times.¹ The modern state's reason for being and its legitimacy are to a large degree based on the just distribution or redistribution of the burdens, demands and benefits in society. "Justice," wrote John Rawls, arguably the most important theoretician of justice in the twentieth century, "is the first virtue of social institutions as truth is of systems of thought."² This is true especially for the institutions of the welfare state. And it applies particularly during the period of the restructuring of the welfare state since the middle of the 1970s, when justice as one of the central normative categories of the welfare state gained even more importance in public opinion.³ In the decades before, when the welfare state was expanding, social and political injustices were experienced less strongly, as presumably those who benefited less were still able to get a piece of an ever larger pie; often, new, compensating social measures defused upcoming tensions. Today, in contrast, public support, or at the very least public acceptance, of cutbacks and burdens can only be obtained if both the affected and the public are of the opinion that the social net is being sensibly modified, with an awareness of questions of social justice.

Assessing and evaluating the justice of the arrangements of the social welfare state is made more difficult by the fact that the concept of justice is as striking as it is dazzling and difficult to define. The Swedish social psychologist, Kjell Törnblom, described this state of affairs quite well, "justice is like a greased pig; it yells loudly but is hard to catch."⁴ In all probability it is just this combination of a central political significance and the absence of a clear definition which has enabled "justice" to become such a booming research field, for decades. In principle, one can distinguish between two branches of research, which, however, have taken little note of each other and which communicate very little with each other.⁵ On the one hand, there are those interested in the normative theory of justice, in the rules that should ideally apply in a society concerning the just distribution of goods and burdens. This discussion has been going on for quite a long time in political philosophy, all the way back to Aristotle. The discourse was stimulated and moved forward most recently, in 1971, by John Rawls, in his "Theory of Justice." On the other hand, the last couple of decades have also seen the development of quite heterogeneous, empirical research into "justice." This research asks what conceptions of social justice actually exist in social reality, how they are to be explained, and to what degree they shape both individual and collective actions.

The numerous studies in the field of empirical research into the concept of justice concentrate either on the individual (micro) or on society (macro). They ask either about behaviour or about convictions or, respectively, about attitudes. Following this distinction, the empirical studies can be divided into two groups:⁶ the first group investigates the behaviour of individuals or of small groups and is found in social psychology and, recently, economics. Researchers here usually conduct laboratory experiments which, with role playing and games, test if and to what degree people act

¹ See Kersting 2003, p. 23. –This research was supported by a Marie Curie Intra European Fellowship within the 7th European Community Framework programme (PIEF-GA-2009-235363). I would like to thank Jeffrey Verhey for translating the text into English.

² Rawls [1971] 2005, p. 3.

³ For the different stages of welfare state development and the 1970s as a watershed, see Hockerts 2007; Süß 2007; Kaelble 2004; Raphael 2004; Pierson 1996; Pierson (ed.) 2001.

⁴ Törnblom 1992, p. 177.

⁵ See Liebig and Lengfeld 2002.

⁶ See Kohli 2006a, pp. 459 ff.

consciously according to principles of fairness.⁷ The second strain of empirical research into the concept of justice is done in the social and political sciences. There are essentially three sorts of research questions empirical researchers ask.⁸ Those who analyze institutions try to understand which principles concerning justice are inscribed in the structural designs of certain institutions and what actual redistribution is accomplished by this.⁹ Research into attitudes investigates, on the basis of surveys – such as, for example, the *International Social Justice Project*, what conceptions and understandings of justice actually exist among the population, and what social variables influence these conceptions and understandings.¹⁰ In the last couple of years, alongside these approaches a third strain of investigation has been introduced, which investigates the development and the role of the semantics of justice in public discourses.¹¹

The following thoughts on the development of the British and the West German welfare state since 1945 fall broadly within the field of the history of institutions. I will try to reconstruct the concepts of social justice which underlie and underpin the architecture of the social security systems in both countries and describe how – or if – they have changed. I am interested not so much in the intentions of the most important social-political actors as in those structural principles which were, and are, reinforced institutionally in the arrangements of the social state – in part even behind the backs of those involved – and which therefore can best be distilled from a bird's eye view, looking back. Special attention shall be paid in this context to the question: Have the principles of justice inscribed into the institutions of the welfare state in both countries changed fundamentally since the Second World War or has their respective “genetic code” remained pretty much the same?

The heuristic starting point of this study is the distinction, widely accepted in the research on the nature of justice, between the three basic principles of distributive justice: justice in terms of need, justice in terms of merit or equivalence (meaning that there is an equivalence between contributions and benefits in the social insurance systems) and justice in terms of equality.¹² If one employs the much criticized, but just as widely used, typology of Gøsta Esping-Andersen,¹³ the liberal welfare state regime of Great Britain can be assigned rather sweepingly, as it often is, to the group which sees justice in terms of need, whereas the corporatist or conservative welfare state of Germany is seen as belonging to the second category: justice in terms of merit, or equivalence. These categories and these assignments will be examined in the following. At the centre of our study we will look, first, at the health care system, then at the systems of making provisions for one's old age, and, finally, at the systems which insure against the risks of unemployment, before turning to the results and reflecting on these in the light of the newest developments.

II

It is characteristic of the health care systems of both states that there is a relatively high degree of continuity in the principles which underlay their construction from the period right after the war up till the present day. In West Germany after the Second World War one took up where one had left off before, with a system of compulsory insurance such as had been introduced under Bismarck, and established a health care system with strong organized interest groups, above all, the advocacy groups of health care insurers and physicians. Their traditionally strong position gave these groups a wide-

⁷ See Henrich et al. (eds) 2004; Fehr and Schmidt 1999; Fehr and Fischbacher 2003.

⁸ Liebig, Lengfeld and Mau 2004, pp. 11-17.

⁹ See, e.g., Elster 1992; Schmidt 1995; Rothstein 1998; Goodin et al. 1999; Möhle 2001.

¹⁰ See Kluegel, Mason and Wegener 1995; Liebig and Wegener 1995; Schmitt and Montada (eds.) 1999.

¹¹ Cf. Reeher 1996; Schmidt 2000; Leisering 2004.

¹² Cf. Miller 1999; Deutsch 1975; Clasen and Oorschot 2002.

¹³ See Esping-Andersen 1990. For the critique cf. Kohl 1993; Lessenich and Ostner 1998; Toft 2000.

ranging veto power in regard to more extensive reforms. Already at the beginning of the 1960s, a comprehensive reform of the health care system, which the federal government had tried to introduce with a so-called “Reorganization of the Health Care Insurance Act (*Krankenversicherungsneuregelungsgesetz*),” was abandoned because of the opposition from the doctor’s associations.¹⁴ Although there has been a phase of austerity since the middle of the 1970s, during which politicians have repeatedly and ever more strongly emphasized the need to save money, the various measures undertaken to keep costs down, by both the SPD/FDP coalition as well as the CDU-CSU/FDP coalitions, have had at best a humble and temporary success. The West German health care system has come through the German unification more or less unchanged and was simply expanded to the territory of the former GDR. Taken as a whole, the collective actors in the German health care system have blocked any and every reform of the basic structures.¹⁵

To the present day, the British health care system is dominated by the *National Health Service* (NHS), founded in 1948.¹⁶ To be sure, in 1979 the Thatcher government forced the health care sector to submit to a rigid austerity policy as well as to a series of reforms which culminated in 1989 with the introduction of market-oriented mechanisms and elements. Taken as a whole, these reforms went far beyond any of the reforms in Germany.¹⁷ However, the NHS continued to exist in its basic structure as the state health care service. The almost icon-like popularity which the NHS still very much enjoys as a national institution among wide sections of the population speaks against any further privatization.

The fact that the British and German health care systems are quite different in many important ways has been repeatedly emphasized.¹⁸ And indeed there are significant differences; only the most important shall be listed here. First, the British NHS corresponds to the so-called Beveridge type of welfare state. The NHS is a state-run and publicly-funded health care service to which all citizens have essentially the same access. In contrast, the German health care system is based on the legal duty to buy insurance from one of the numerous health care insurance providers and controls access to the type of insurance either directly or through one’s family relationship. Characteristic for the German health care system is, second, the monopolization of all out-patient treatment by registered doctors and the persistently strong position of their interest organisations. In Great Britain, in contrast, in the course of the increasing concentration in the health care sector since the 1960s, the influence of the advocacy groups of the physicians has become increasingly weaker. Third, both systems exhibit, if one examines their financing, structurally different problems: whereas the British health care system has been chronically underfinanced since it was founded, the German system suffers till the present day from difficulties in keeping costs down.

However, in spite of very basic differences, there are more similarities than differences concerning these two social security systems when examined from the viewpoint of the institutionally anchored principles of justice:

1. The individual contribution assessment employed both by the NHS as well as by the German compulsory health care insurance system is based on the principle of one’s ability to pay, meaning in both states one’s income. This is clearly true for the NHS, which is financed primarily by taxes, but it is also true, with minor modifications, for Germany’s compulsory health care insurance system, where contributions increase proportionally to one’s income before taxes, albeit only up to a certain limit.

2. Looking at the question of justice in terms of accessibility, both systems embrace the principle of equality. All residents in Great Britain have access to the NHS. In 1949 72%, in 1959 already 85% of

¹⁴ Reucher 1999; Wasem et al. 2007.

¹⁵ See Rosewitz and Webber 1990.

¹⁶ Klein 1983; Lindner 2004.

¹⁷ Lindner 2007, pp. 314-318.

¹⁸ See, e.g., Lindner 2004, p. 119.

the population of the Federal Republic of Germany had compulsory health insurance coverage, which is only a little less than today (about 90%).¹⁹ The circle of those insured by the health care insurers is composed of those employees who are directly insured - compulsory or voluntarily, their family members, and the groups which are not employed – among whom the retired form the largest group. Withdrawing from the state system or, in Germany from the compulsory system, is in both countries not conceived of as an exclusion of those with fewer privileges, but rather as a private exit for the well-to-do and for special groups. The solidarity principle is much more pronounced in Great Britain's health care system. To be sure, many of those with higher incomes have an additional, private insurance policy for special services; however, they contribute with their taxes to financing the NHS and generally use the NHS for basic treatment.²⁰ In Germany, in contrast, those who have private health care insurance – employees with an income above the limit set for compulsory insurance, self-employed and civil servants – are not a part of the legally mandated compulsory health insurance.

3. Benefits, that is to say, medical treatments, are granted both in the NHS and in the German public health care insurance system according to one's needs; that is, the treatment depends on the sickness and is in no way affected by the amount one has previously paid into the system.²¹ In this way, both systems achieve a considerable redistributive effect, which, of course, is not the intended goal, but is rather the "means to the goal," one tacitly accepted.²² The solidarity expressed in the financing of the system according to the principle of one's ability to pay and the provision of service according to the principle of one's needs has led to a redistribution effect in four directions: from the healthy to the sick, from those with large incomes to those with low incomes, from singles to families (family members are insured in a family insurance policy at no extra cost), and from the young to the old. Accordingly, there can be quite different distributive effects in regard to the same individual, when considered as an insured person or as a taxpayer. When they are superimposed on each other, they can even work in opposite directions. As a result, the distributive balance in regard to any individual can be quite opaque in quantitative terms and may furthermore change regularly over time.²³

III

Both in Great Britain and in the Federal Republic of Germany there were thorough and fundamental reforms in the public system of making provisions for one's old age after the Second World War. In Great Britain the institutional reorganization, just like the political debate which preceded it, took place under the primacy of avoiding poverty. The enormous popularity of the Beveridge plan, put forth in 1942, which aimed to create a new social security system, can be traced back to the fact that it announced there would be benefits for everyone, and that these would be paid without having to take the means test, which was seen as degrading, and which had been a part of the tradition of the British Poor Law.²⁴ In regard to making provisions for one's old age, the Beveridge plan, implemented to a large degree by the Labour government under Clement Attlee, brought about the introduction of a Basic State Pension, which aimed to provide a national minimum standard of living. This Basic State

¹⁹ Tennstedt 1976, p. 422; Deutscher Bundestag, Drucksache 15/530: Gutachten 2003 des Sachverständigenrates für die Konzertierte Aktion im Gesundheitswesen, vol. 1, p. 26.

²⁰ Lindner 2007, pp. 317 ff.

²¹ The principle that treatment should be based exclusively on the medical need is an attribute of both systems. In practice, of course, it is not always fully carried out. Thus, the pressure of rising costs has meant, especially in the British health care system, that certain groups of patients – for example, the elderly, are sometimes excluded from certain medical treatments.

²² See Ullrich 2004, pp. 73 ff.

²³ Deutscher Bundestag, Drucksache 15/530, vol. 1, pp. 26 ff.

²⁴ Kaufmann 2003, pp. 139 ff.

Pension was not conceived of as an universal pension for all citizens, unlike, for example, Sweden; rather, whether or not one was entitled to receive benefits depended on whether one had previously paid into the National Insurance Fund. However, the principle of equivalence expressed here was never the dominant principle in the British public system of old age pensions and, indeed, the principle of equivalence has become distinctly weaker over time. This is particularly true since the middle of the 1970s, when the contributions to the state pension were no longer raised in the form of a flat-rate contribution; rather, the size of the contribution depended on one's income. The Basic State Pension, in contrast, remains that which it always was: a flat-rate state pension. All those who are entitled receive the same sum.

The principle of equality clearly dominated the institutional construction of the British Basic State Pension. Just as clearly, too, did the architects of this pension state from the beginning that they did not aim to secure for the retired who drew this old-age pension a comfortable life, without cares. Rather, private initiatives for taking care of one's old age would remain very important. Already the Beveridge Report had stated clearly:

Social security must be achieved by co-operation between the State and the individual. [...] The State in organising security should not stifle incentive, opportunity, responsibility; in establishing a national minimum, it should leave room and encouragement for voluntary action by each individual to provide more than that minimum for himself and his family.²⁵

This meant that the Basic State Pension provided for one's old age at the level of the minimum standard of living, no more. In fact, the Basic State Pension never achieved even this modest goal. Already in 1948, the first year of its existence, 638,000 people of retirement age depended on the National Assistance given to those in need. By 1951 this number had increased to 969,000, as the increases in the Basic State Pension did not keep up with the post-war inflation.²⁶ In the 1960s and 1970s, the Basic State Pension increased somewhat in comparison with wages; since then, however, its relative significance as a part of one's provision for one's old age has decreased continuously. In 1979 the yearly improvement was uncoupled from developments in wages and reduced to a pure adjustment for inflation. As a result, the level of the public pensions fell ever further behind that of wages. If in 1974 the Basic State Pension was still at 24% of the average wage, in 2008 it was only 16%.²⁷

The inadequate level of benefits provided by the public retirement pensions and the degree of social inequality in old age looming on the horizon, the fact that only a minority had access to occupational pension schemes or were able to make private provisions for their old age, led to numerous public calls for reforms. Already in 1955 Richard M. Titmuss, the leading social policy expert of the 1950s, complained about the divide that was being created as a result of the fact that a privileged minority was increasingly able to safeguard its standard of living through their occupational pension: "two nations in old age; greater inequality in living standards after work than in work."²⁸ The increasing political pressure behind the idea of a general, public old-age pension in which the benefits would be correlated to one's income first found expression in the Graduate Retirement Pension Scheme (GRPS), a public, scaled pension, which was passed in 1959 by the conservative government of Macmillan to supplement the Basic State Pension. This Graduate Retirement Pension Scheme, however, was at best a half-hearted attempt, a minimalist solution, as the pension income from this

²⁵ Social Insurance and Allied Services, Report by Sir William Beveridge, Cmd. 6404 (1942), pp. 6 ff.

²⁶ Thane 2000, p. 371.

²⁷ Pensions Policy Institute 2009, p. 5; UK Pensions Commission 2004, p. 132.

²⁸ Titmuss [1955] 1958, p. 73.

system quite quickly became insignificant as a result of the considerable inflation in the following years and the lack of any indexing for inflation.²⁹

The reform which the Labour Party pushed through successfully in 1975 went a good deal further. With the State Earnings Related Pension Scheme (SERPS), the Labour Party set up a system in which benefits were to be coupled to developments in wages respectively prices. Originally, SERPS aimed to provide an old-age pension to those who were entitled to full benefits which was 25% of the income which had been used to calculate the level of the assessment. This goal was, however, as was the goal for the SERPS as a whole, only kept up for a short period. In force since 1978, SERPS had only been in place for a couple of years when it was almost abolished by the Thatcher government. Recipients were forced to accept significant reductions in their benefits, especially as a result of the Social Security Act in 1986, which reduced the income replacement ratio to 20%.³⁰ SERPS finally received its death blow from the Blair government, which allowed it to expire in 2002, although the pension entitlements people have earned will continue to be paid for decades. In 2002 New Labour replaced the State Earnings Related Pension Scheme with the State Second Pension (S2P), a flat-rate state pension for those with small incomes. The State Second Pension is thus, unlike SERPS, not based on the principle of equivalence, but is rather, just like the Basic State Pension, based on the principle of equality.³¹

It would be an inadequate description of the British system of making provision for one's old age if one failed to highlight two basic characteristics which outlived the changes in the core area of public pensions sketched here and which have become ever more important. First, occupational pensions have traditionally been very important, as, too, have private efforts to make provisions for one's old age. Today almost half of the income (48%) of British retirees comes from these sources.³² The state strongly supported the expansion of occupational pensions and private provisions for one's old age, and made it possible to people to contract out – to be freed from having to participate in the public retirement pension supplement system – if minimal requirements concerning sufficient private provisions for one's old age were met. The newest measures of New Labour also aim to expand private provisions and occupational pensions, albeit, accompanied by an increasing social-political regulation of these.

Second, one must point out the continuity of a high degree of poverty among the elderly and the corresponding central position of the principle of neediness in the British system of making provision for one's old age. The importance of the idea of “needs” is in open contradiction to the main goal – at least it is repeatedly claimed that this is the main goal – of avoiding poverty among the elderly. Accordingly, measured against its own goals and aspirations, the British system for dealing with old age must be seen as having largely failed. According to official estimates, in 2005 in Great Britain approximately 60% of the retired were entitled to at least one of those state benefits which required that they take a means test (Pension Credit, Housing Benefit, Council Tax Benefit).³³ Either because they did not know about it or because they feared social stigma, only two-thirds of those eligible actually claimed the benefits.³⁴ In Great Britain, poverty in old age has a clear gender bias: women – and especially single women – are significantly overrepresented among the needy.

²⁹ The maximum weekly benefit amount from the GRPS payable in 2009/10 is £ 9,92 for men and £ 8,30 for women. Pensions Policy Institute 2009, p. 8.

³⁰ Leisering et al. 2002, p. 98.

³¹ Department for Work and Pensions 2006, p. 17.

³² Pensions Policy Institute 2009, p. 3.

³³ Department of Work and Pensions, Projections of Entitlement to Income Related Benefits to 2050, available at <http://www.dwp.gov.uk/docs/projections-of-entitlement-to-incomerelatedbenefitsjune2008.pdf> (accessed 23 December 2009).

³⁴ Department of Work and Pensions 2008, pp. 11, 29.

In the Federal Republic of Germany, the most important decision concerning old-age pensions took place with the extensive reform of the state's old-age pension scheme in 1957. This reform established a system of old-age pensions which in its basic form has existed up to the present day and which in the course of the last decades – if one leaves out special groups such as civil servants – was extended practically to the whole population. Contributions to the public old-age insurance system were and are calculated according to one's ability to pay. Contributions increase proportionally with one's wages before taxes to an upper limit, whereby half of the money comes from the employee and half is paid by the employer. On the benefits side, the reform of the retirement social security system in 1957 was, in its goals, much more ambitious than the reorganization of the British state pension system ten years earlier. It aimed not only to prevent poverty among the elderly, it also represented a change in the function of the pension from a subsidy to finance one's livelihood to a payment which was nearly equal to one's previous salary; the goal was to be able to sustain in retirement as far as possible the social status one had been able to acquire during one's working life.³⁵

The idea that dominated German institutional thinking about justice was the principle that benefits had to be equivalent to contributions. The amount of the old-age pension was and is dependent upon the amount and the length of time that one had previously contributed to the old-age pension system. From the very beginning, this norm was opened up by regulations which had the effect of making the state's system of providing for one's old age also qualify as a social insurance system. To be included here are, for example, the provision for dependents and the taking into account and compensating for periods when one had involuntarily not contributed to the fund because, for example, of sickness or unemployment. At the same time, the 1957 reform of the state pension system contained, with its massive increase in the general level of old-age benefits and the linking of pensions to the development of wages, essential elements of the norm of achieving equality between the different age groups. Both principles of justice – that unequal benefits result from the differences which had existed while one was working and that the incomes of those who were retired and those who were still working should develop along parallel lines – came together in the idea, which is still prevalent in Germany, that the state pension should secure one's previous standard of living.³⁶

Taken as a whole, measured against its own goals and aims, in the past half century the German old-age insurance system can be considered a success. In 1957, the reform increased pensions, on average, by 65%. A further milestone of the policy to expand the scheme for making provisions for one's old age was the reform in 1972, which included the "old-age pension of the basis of a minimum income" (*Renten nach Mindesteinkommen*) (which is not to be confused with a minimum old-age pension) and further extensive improvements in benefits. On top of this, until 1992 the benefits paid by social security pensions were linked to the increase in wages before taxes and as a result often increased more than the much slower growth in wages after taxes. As a result, the level of the salary replacement after taxes, that is, the pension benefits of the average earner who had paid his fees for the "full period" (45 insurance years), reached a level in the 1970s of approximately 70% in relation to one's last income after taxes; it has fluctuated around this level ever since.³⁷ Looked at from the viewpoint of fighting poverty in old age, the German pension system has proven to be quite effective; in 1994 the percentage of those over 65 who were living beneath the poverty level was only 7% and was thus in international comparison relatively low, far exceeded, for example, by Great Britain with 13.7%.³⁸ The reduction in old-age poverty in the Federal Republic advanced even after the middle of the 1970s, when the poverty rate in society as a whole began once again to rise moderately. One of the consequences of the high level of benefits of the German pension system is that the role of

³⁵ Hockerts 1983, pp. 312 ff.; Hockerts 1990.

³⁶ See Leisering and Marschallek 2010.

³⁷ Frerich and Frey 1996, p. 44; Bourcarde 2006, p. 16.

³⁸ The poverty threshold is defined here as 50 percent of the median equalized disposable income. Kohli 2006b, p. 126.

occupational pensions and private provisions for one's old age has been a subordinate one up till the recent past.

In regard to the significance of the traditional central principle of justice in terms of the equivalence between benefits and contributions, uneven, even contradictory trends can be observed in recent decades. On the one hand, the basic principle that contributions should be equivalent to benefits has been strengthened, for example, through the gradual, step-by-step cutback since 1992 of the ability to count one's school time or one's time at university as part of the time that one had "paid" into the retirement fund; the ability to do this was completely eliminated at the beginning of 2005.³⁹ Developments in regard to early retirement point in the same direction. It has become increasingly difficult to go into early retirement, that is, since the end of the 1980s one's benefits have been reduced if one did so.⁴⁰ On the other hand, there was also a weakening of the principle of equivalence. Since 1986, the government has resolutely expanded the ability of parents to include periods when they raised children as time that they "paid" into the retirement fund. This represents a loosening of the relationship between one's contributions and one's benefits in favour of a settlement between the sexes, or rather between families and those without children.

The reform of the old-age pension system in 2001 and 2004 marks in many regards a structural change in the German state pension system. This is true first of all in regard to the increasing importance of occupational pension schemes and private efforts. Both of these forms of making provisions for one's old age were advocated by politicians, albeit the politicians also advocated social-political regulation of the schemes and efforts.⁴¹ The government's intent to strengthen occupational pension schemes and private efforts is closely related to the fact that the benefits from the state-run compulsory old-age pension plan will, over the middle and the long term, be significantly reduced. Through changes to the formula which determines the level of the pensions, among which is included a so-called "sustainability factor," the net pension level, according to the model calculations of the *Verbands Deutscher Rentenversicherungsträger* and the OECD, which are in agreement, will in all likelihood sink up to 2030 to about 58% (currently 67%) of previous wages.⁴² Although the principle of equivalence between what one paid in and what one receives out of the pension fund will remain, it will become increasingly less significant because of the lowering of the margin of inequality in regard to pensions which will accompany the lowering of the general level. The norm of the equality between the age groups, which was previously quite strongly developed in the German compulsory old-age pension plan, has been abandoned as, too, has the goal of securing a certain standard of living. If the laws are not changed, given the fact that those who had previously earned little will receive only 58% of their previous wages – a low replacement ratio in international comparison (a consequence of the principle of equivalence) – and that there is no basic state pension not based on a mean's test, in the next couple of years there will in all likelihood be an increase in poverty among the elderly and, accordingly, the principle of neediness in the German system of making provision for one's old age will become increasingly important.

IV

Just like the state's insurance scheme for old-age, social insurance against unemployment is in Great Britain an integral part of the National Insurance systems which were introduced in Great Britain by

³⁹ Deutsche Rentenversicherung, Anrechnung schulischer Ausbildungszeiten in der Rentenversicherung; http://www.deutsche-rentenversicherung-bund.de/nn_6986/DRV/de/Inhalt/Presse/Hintergrundinfos/anrechnung__schulischer__ausbildungszeiten.html (accessed 23 December 2009).

⁴⁰ Ebbinghaus and Schulze 2007, pp. 286 ff.

⁴¹ See Leisering 2007a; Berner 2006.

⁴² Verband Deutscher Rentenversicherungsträger 2004, p. 29; OECD 2007, pp. 35, 129.

the Labour government shortly after the Second World War.⁴³ Whereas Beveridge had originally imagined that there would be flat-rate contributions to the National Insurance Fund, since 1975 these contributions have become income-dependent; they increase according to a measure of one's economic ability to pay. In contrast, those workers who lose their job and who, because they paid into the fund, have a claim to unemployment insurance benefits, still receive, as they did before, flat-rate benefits. The British system of safeguarding against unemployment has as a whole a residual-egalitarian character: unemployment benefits are paid without reference to one's previous income and at a very low level (presently 12.6% of the median income).⁴⁴

Since the late 1970s the dominant trend in the British system of safeguarding against unemployment has been for the principle of equality to be pushed back by the principle of need. After having made the conditions for receiving benefits from the social insurance system more and more difficult for a decade and a half,⁴⁵ the new regulations of the Job Seekers' Allowance in 1996, which are still valid today, brought together into one program the payments to the unemployed of the unemployment insurance system (contributory benefits), which are related to the contributions that one paid into the insurance system, and the means-tested benefits. At the same time, the maximum length of time that unemployment insurance system benefits could be paid was reduced from twelve to six months. The effect of this measure, as of other similar measures, was to reduce the percentage of those receiving unemployment insurance benefits from 1979/80 to 2001/02 from 45% to 9%.⁴⁶ Accordingly, today the means-tested benefits are the most important part of the social security against unemployment in Great Britain.

In the Federal Republic of Germany, with the amendment of the Job Placement and Unemployment Insurance Act (*Gesetz über Arbeitsvermittlung und Arbeitslosenversicherung*) in the middle of the 1950s, a two-tiered system of unemployment benefits (*Arbeitslosengeld*) and unemployment assistance (*Arbeitslosenhilfe*) was established, which in principle remained the same up till a couple of years ago. The unemployed received unemployment benefits if they were able to show that they had paid into the unemployment insurance system. The level of benefits was set according to the principle of equivalence in regard to what one had paid into the system: the unemployment benefits were set at a certain percentage of one's previous income. When one's insurance "claim" was used up, then the unemployed person received unemployment assistance (*Arbeitslosenhilfe*), which was financed by taxes and which in principle was open-ended. Taking a look at the concepts of justice which underlaid this, this system was a mixture of various forms. Whereas a claim to unemployment assistance required that one passed a means test, the level of financial benefits that one was to receive with unemployment assistance (*Arbeitslosenhilfe*) as well as with unemployment benefits (*Arbeitslosengeld*) was based on the principle of equivalence. The amount of both benefits was based on one's previous income after taxes. At its height in 1975, the net replacement ratio for wages was 68% for unemployment benefits and 58% for unemployment assistance.⁴⁷ The central idea behind both benefit systems was that the individual was supposed to be able to sustain, broadly speaking, the living standard previously achieved.

⁴³ See Harris 1994; Abel-Smith 1994; Johnson 2004.

⁴⁴ Department for Social Development, Jobseeker's Allowance – General Information, http://www.dsdni.gov.uk/index/ssa/benefit_information/a-z_of_benefits/jobseekers_allowance_gbi/jobseekers_allowance_general_info.htm, und National Statistics, Earnings; <http://www.statistics.gov.uk/cci/nugget.asp?id=285> (accessed 13 April 2009), my own calculations (applies for jobseekers older than 25 years).

⁴⁵ See Atkinson and Micklewright 1989.

⁴⁶ Clasen and van Oorschot, 2002, p. 106.

⁴⁷ Schmid and Oschmiansky 2008, p. 322. For the German labour market policy in general, see Schmid, Wiebe and Oschmiansky 2005; Schmid and Oschmiansky 2007a; Schmid and Oschmiansky 2006; Schmid and Oschmiansky 2005; Schmid and Oschmiansky 2007b.

After a series of measures since the middle of the 1970s which tightened the conditions in regard to those eligible to make claims, to the length of time that one could receive the benefits and to the amount of the unemployment benefits and unemployment assistance (which, however, left the basic organizational principles of the existing social security systems untouched), the so-called “Hartz” reforms were passed by the red-green coalition. These reforms represented a break with institutional traditions. Just like the Job Seekers’ Allowance in Great Britain a decade earlier, but at a much higher level of benefits, the Fourth Act on Modern Services in the Labour Market (*Viertes Gesetz für moderne Dienstleistungen am Arbeitsmarkt*, also known as *Hartz IV*) combined unemployment assistance (*Arbeitslosenhilfe*) and welfare benefits for those capable of working (*Sozialhilfe*) into a single system of benefits. Beginning in January 2005, unemployed whose claim to receive unemployment benefits had been exhausted, as well as those who were capable of working and who had previously been on welfare have received flat-rate, lump-sum payments - unemployment benefits II (*Arbeitslosengeld II*), which aim to secure a minimum standard of living. To receive these one has to pass a means test.⁴⁸ At the same time, the length of time for which one could receive the insurance benefits, which were now known as *Arbeitslosengeld I*, was limited as a rule to 12 months. In the final analysis, these measures have brought about a change in the paradigm. If before the dominant goal had been to secure the social status of the unemployed, now, as a result of the introduction of the unemployment benefits II the goal has moved in the direction of securing a social and cultural minimum standard of living. Looked at from the viewpoint of examining the basic principle of justice underlying the institutional framework, this meant that in Germany, too, the principle of neediness has become increasingly important – here at the expense of the principle of the equivalence between benefits and contributions.

V

Let us attempt at the close of this essay to summarize the results. First, one must emphasize that from the perspective of the history of institutions after 1945 there is neither in Great Britain nor in Germany one single principle of justice which underlaid the complete structural design of the welfare state and which was the organizing principle in all realms of social security. There is a certain uniformity only in regard to the financing of the benefits of the welfare state. In both cases, the dominant principle was that of the ability to pay: the contributions and taxes which were the sources for the expenditures of the welfare state were not collected in the form of lump-sum contributions; rather, the contributions and taxes depended on the level of one’s income – albeit in Great Britain, however, this is fully true only since 1975. This reflects a basic consensus concerning social solidarity, found in both countries. Both systems are, to be sure, not primarily designed with redistribution in mind, but do accept tacitly a certain amount of redistributive effects in order to achieve the goal of security. It appears that the idea of redistribution is less deeply anchored institutionally in the German case than in the British, as the financing of the social security insurance systems in regard to the calculation of the assessment is achieved in the Federal Republic of Germany primarily by levying contributions proportional to one’s income, but only up to a certain limit, whereas in Great Britain the social security system is financed by a mix of contributions and taxes with a stronger progressive effect. However, the share of the social security spending as a proportion of the GDP is considerably higher in the Federal Republic of Germany than in the United Kingdom, and thus the extent of the potential redistribution is also greater.

In contrast to the financing side, on the benefits side the welfare states in Great Britain and in Germany are based, as a whole as well as in their subsidiary systems, on an amalgam of different principles of justice, which, of course, in their concrete shapes are quite diverse. Parallels can be found above all in the health care systems, which in both countries are based on a combination of the principle of the equality of access and treatment according to the principle of one’s needs. There are

⁴⁸ Dobner 2007, pp. 112-118; Clegg 2007; Kemmerling and Bruttel 2006.

more significant differences, in contrast, in regard to insuring against unemployment and to pension systems, whereby the form of the welfare state in Great Britain entails a link between the principles of equality and of neediness, whereas in Germany the principle of the equivalence between contributions and benefits is deeply rooted.

If one asks about the newest tendencies and developments, one must refer first to the increasing significance of the principle of neediness for both welfare states, especially in regard to how both social welfare states have dealt with the risk of unemployment. This has been true for Great Britain since 1979; for the Federal Republic of Germany it has recently become true – a quarter of a century later – with the far-reaching structural reforms. Such a convergence is suggested as well in the social systems for providing for one's old age. In Germany, as a result of the important decisions taken in the last few years, we have seen a decline in the relative importance of the public social security pensions in favour of occupational pension schemes and of private coverage and thus an increasing similarity to the British system. However, up till now, the principle of neediness in the German system of making provisions for one's old age has not yet become manifest. Rather it is still only a plausible scenario for the future. Taken as a whole, there is a clear preponderance even today in the area of making provisions for one's old age of the respective, specific institutional path once taken. This, in Germany one can speak of the continuing dominance of the principle of equivalence. In Great Britain in contrast, where the system of state pensions traditionally is dominated by the equality principle, the attempt to introduce a permanent retirement pension supplement based on the equivalence principle, SERPS, failed. This approach failed because it was foreign to the system. A coalition of political and economic actors, who wanted to keep the activity of making provisions for one's old age in private economic markets – as they had been before - succeeded. As a result, logically, *New Labour* replaced SERPS with S2P, a lump-sum state pension, which conformed to the existing system.

Today, the social significance of institutions, their power to shape attitudes and developments, is beyond dispute. Most of the approaches which can be subsumed under the rubric of “new institutionalism” are based on the assumption that institutions influence the perceptions, norms, points of view, interests and actions of the people who live inside them in a profound and radical manner – just as, conversely, the people's perceptions are reflected in the shaping of institutional arrangements.⁴⁹ This understanding is in agreement with the empirical studies on the understanding of concepts of justice and on the acceptance of social security systems both for Great Britain and in the Federal Republic of Germany. The empirical studies show a clear institutional bias: attitudes in the population are shaped by the respective institutions of the welfare state and the principles of justice inscribed in these institutions. Additionally, there is also continuing widespread support for the existing social security systems as a whole.⁵⁰ Against this background, it is clear that in the political debates there are, respectively, different understandings of justice and different semantics of justice according to the country and the social welfare system (for example, sickness, old age, etc.). Indeed, one can see as well that there is a potential for resistance to any restructuring of the welfare state if the restructuring violates the expectation of coherence in regard to the principles of justice inscribed into the institutional blueprints and the social norms. Fundamental structural reforms are then not only in danger of hurting the material interests of the clients of the welfare state; they would also be in open contradiction to widespread and deeply rooted conceptions of social justice. Only in this way can, for example, the massive protest demonstrations against Agenda 2010 be explained, as well as the recommendations, which come up periodically, to retract or to amend *Hartz IV*. What caused the unrest appears to have been less the material consequences of the reform, which for a long time could hardly be foreseen, and more the partial break with the principles of justice in regard to compensation and to sustaining one's social status which had been the defining principles of the German

⁴⁹ See March and Olsen 1989; Powell and Di Maggio (eds.) 1991; Steinmo, Thelen and Longstreth (eds) 1992; Rothstein 1998.

⁵⁰ Cf. Mau 2003; Kohli 2005.

unemployment insurance system for decades and which were deeply anchored as norms within society.⁵¹

For approximately two decades, there has been a “return of the question of justice” (Lutz Leisering),⁵² both in German and in British politics; the Labour Party introduced already in 1992 a Commission on Social Justice.⁵³ The reasons for the return of the question of justice, on the one hand, lie in a general decline in the rate of improvement of the standard of living since the middle of the 1970s as well as in an actual increase and restructuring of social inequality. On the other hand, the reasons for this lie in the changing perception of existing inequalities. Alongside the increasing importance of the familiar principles of distributive justice in public discourse, one can document, interestingly, the encroachment and development of a new semantics of justice, which starts with social groups which are defined according to their characteristics, such as families, women, and generations, and which thus thematises *non-class issues*. The call for more family justice, for example, is a demand to improve the position of families vis-à-vis those without children – independent of their respective social-economic status. Implied in the concept of intergenerational justice is the reinterpretation of the previous understanding of justice among the different age groups. This older concept had the goal of justice between the age groups in the sense of letting the older generation participate in the increasing standard of living of the younger generation, whereas the newer concept aims for justice between age cohorts in the sense of generational accounting. In how far the discursive ascent of such topics has been promoted or retarded by the institutions of the different welfare states and the principles of distributive justice they incorporate, and to what degree the new semantics of justice have been superimposed on or even amalgamated with the traditional ones, lies outside of the focus of this essay. This question requires further empirical research, as, too, does the question, in what way have the changes in the discourse on justice, conversely, been reflected in a transformation of the institutions of the welfare state.

⁵¹ For the high acceptance of the equivalence principle in the German system of unemployment insurance, see Ullrich 2004, pp. 83-90.

⁵² For this and the following, see Leisering 2004; Leisering 2007b.

⁵³ See Social Justice 1994.

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