



# Gender and Family in European Economic Policy

Developments in the New Millennium

*Edited by* Diana Auth, Jutta Hergenhan,  
*and* Barbara Holland-Cunz



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Diana Auth • Jutta Hergenhan • Barbara Holland-Cunz  
Editors

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# Introduction: Rethinking Gender Equality Since the Turn of the Millennium

*Diana Auth, Jutta Hergenhan,  
and Barbara Holland-Cunz*

Since the turn of the millennium, many countries across Europe have taken legislative action to increase gender equality in numerous segments of society and the state. With more radical approaches than in the past, governments have passed laws striving for equal participation of women and men in the areas of political decision-making, childcare, family tasks and economic leadership. Several countries have broken ground with ideas such as the French “parity law”, quotas for

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women on corporate boards, pay equity laws, minimum wages and paid parental leave reforms with non-transferable months. Many of these laws have had a pioneering role, as they go much further and have a stronger obligatory character than previous actions in the respective fields. Are we witnessing a form of revolution?

With this in mind, the aim of our book is to explore the way in which these innovations have changed the factors decisive to women's participation in three fields—economic, private and political—since the turn of the millennium. We will scrutinise the role states play, or should play, in accelerating the process towards equal participation. Furthermore, we will study how the long-term impacts of cultural changes and fast-track solutions such as quotas or direct financial incentives relate to one another. Some studies show, for example, that innovative action in one country serves as an example for other countries or other contexts. Other researchers show that fast-track actions function differently depending on the cultural context within which they are implemented. Beyond the quantitative aspects of equal gender participation, the focus will be on mutually reinforcing policy effects. Our contributors will also examine which segments of society benefit from the implementation of certain gender equality measures. Research results have shown that not all groups of women have their share in the benefits of reforms and new laws—some groups are simply forgotten or neglected. Finally, a higher-level analysis will compare gender equality policies between different states with regard to their impact and efficiency.

The distinctive feature of our book is the combination of current gender issues in various policy fields as seen from a political science perspective. All of the authors of this book have focused on innovative and recently introduced gender equality measures and examine their outcomes with regard to their scope, their (selective) outcomes, and their impacts on gender equality and gender culture in general. By doing so, the conditions for the success of fast-tracked solutions in relation to long-term cultural change can be identified.

## I GENDER EQUALITY IN THE ECONOMIC SPHERE

Gender equality in the economic sphere has been part of the European integration project from the very beginning. Equal pay for work of equal value has been legally guaranteed since the European Economic Area was created in 1957. Based on decisions of the European Court of Justice and

on gender equality directives initiated by the European Commission, the member states of the European Union have adopted legislation to ensure gender equality in numerous fields of the economy and the welfare state. Despite these legal provisions, women's positions in the economic sphere are far from being equal to men's in practically all sectors and levels of decision-making. Although women's employment rates in the EU reached an all-time high of 64.5 % compared to 75.6 % for men in 2015, women still earn an average of 16 % less than men per hour of work (European Commission 2016; Smith and Villa 2015).

For decades, European gender equality policies mainly targeted labour market regulations and welfare state provisions (Maier 2015). With the new millennium, the focus moved to the top levels of economic decision-making. The push came from outside the EU: Norway passed a law in 2003 requiring private and public enterprises to appoint at least 40 % women to their boards. Iceland introduced corporate gender quotas in 2009, as the severe financial crisis had brought the lack of gender diversity in business leadership into the spotlight (Rafnsdóttir et al. 2014). In 2011, European Commissioner Viviane Reding announced a quota directive for supervisory boards in order to put pressure on companies and on member states' governments, as soft measures, despite having been in effect for many years, had not shown any consistent increase of women on corporate boards. France, Italy and Belgium adopted legally binding measures to improve the gender balance on company boards. Other EU member states followed, some with strict and immediately applicable rules, others foreseeing gradual shifts, "encouraging" measures or exceptions for small- and medium-sized companies (European Commission 2012). In Sweden, a strong increase of women in top economic positions was achieved by "threatening" the introduction of a binding quota, which was finally not necessary (Borchorst and Teigen 2015; Bothfeld and Rouault 2015).

From a theoretical point of view, the effectiveness of labour market policies such as quotas or anti-discrimination policies is dependent to a high degree on their policy design. Regarding policy designs, Bothfeld and Rouault (2015) plead for a combination of three instruments: hierarchical instruments which codify the modus of regulation, for example, binding and concrete aims or substantial regulations; procedural instruments which help to establish corridors for action, rules of procedures as well as recourses and incentive systems; and, last but not least, evaluative instruments which make sure that regulations are fulfilled (e.g., reporting obligations, binding controls and sanctions). Because the gender pay gap is



the result of a number of interrelated factors (such as the large number of women working part-time or working in the public sector), it is, according to Smith and Villa, particularly important to adopt a multidimensional and coordinated approach on the national and the sectoral levels. Additionally, it is important that the social partners adopt the aims of equal pay policies in order to put them into practice, whether for reasons of justice and equality, or for a more profitable use of women's human resources. Interestingly, minimum wage policies or taxation reforms in favour of lower income earners often have stronger effects on pay equity than explicit equal pay policies (Smith and Villa 2015).

## 2 GENDER EQUALITY WITHIN THE REALM OF THE FAMILY

Over the last 15 years, several European countries have also initiated reform measures in the field of family policy or care policy. In most cases, childcare facilities for children under 3 years have been extended, paid parental leave schemes have been reformed (although in different directions) and cash benefits (like care allowances or child benefits) have been introduced or increased. However, gender equality is not the only driving force behind these family policy reforms. Some of them are determined by economic or demographic reasons, others by (re-)familialistic interests. In 2001, Iceland and Norway (ever-prominent from a gender equality perspective) increased their quotas for fathers within the parental leave scheme. One year later, Sweden followed their example. The new policy measures provide incentives for both parents to spend several months at home with their young child.

There are several theoretical attempts to show how care-related policies should be designed to simultaneously foster mothers' labour market integration and father's care participation as well as guarantee options for both parents to choose between home caring and external childcare facilities. This is why, from a gender equality perspective, family policies have to fulfil three aspects: redistribution, recognition and choice.

Firstly, family policy should foster the redistribution of paid work. The labour market integration is necessary for women to gain financial independence and autonomy. Bearing this in mind, short and well-paid parental leave programmes with fathers' quotas as well as publicly provided high quality childcare and eldercare services are a prerequisite. The redistribution of paid work corresponds with the adult worker model that

is pushed by the European Employment Strategy (Auth et al. 2015). It is, however, criticised by feminists because of its one-sidedness (Lewis 2001).

While the redistribution of paid work is an important component of women's emancipation, it is not the only component.

Secondly, women's care work needs not only to be redistributed, but also recognised, and valorised. Parental leave measures that support this redistribution are based on generous wage-replacement rates and non-transferable months. Combining these two elements helps to solve the "redistribution-recognition dilemma", dealt with by Fraser (1997), and supports an "earner-carer-society", developed by Gornick and Meyers (2008).

There is a third issue that is important from a gender perspective in a modern society, that being one of choices. There are two points of reference, the optional familialism of Leitner (2003) and the feminist "trichotomy" approach of Ellingsæter (2007). She combines Fraser's arguments with Giddens's concept of life politics. Ellingsæter (2007, 52) ties up with this concept by using the "cultural argument for a politics of choice", in which she refers to choices regarding forms of care.

Within Leitner's (2003) optional familialism, options (or choices) are possible because of de-familialistic *and* familialistic policies. Welfare states provide sufficient, high quality and affordable childcare and eldercare facilities, and, at the same time, support and strengthen familial care activities by paid parental leaves and eldercare allowances. While de-familialistic policies are always promoting gender equality because they unburden women from caring work, familialistic policies can be gendering or de-gendering. If they are combined with incentives to share care work between the sexes, they can foster gender equality. This combination of de-familialistic policies as well as de-gendering familialistic policies creates real choices for mothers and fathers without perpetuating traditional gender roles.

The contributors to this section of the book engage in this form of analysis and try to evaluate family policies in different countries under gender equality aspects.

### 3 POLITICAL REPRESENTATION

Our third field of research and discussion concerns the political representation of women in European parliaments and the progress of female representation during the past one and a half decades. At first glance, representation seems to be the most relevant but also most contested field that we have chosen for our book. Historically speaking, equal pay and

women's employment were the original claims to be codified in the 1957 European founding treaties. Over the last 20 years, these targets have been replaced by fair representation as the central goal of gender politics because questions of representation and participation belong to the core concept of Western democracy.

Since 1967, the year of publication of Hanna F. Pitkin's "The Conception of Representation" (Pitkin 1972), scientific research on liberal democracies has always referred to Pitkin's ideas. This holds true for feminist discussions about fair representation and the so-called mirror principle (Phillips 1991) too. It is well known that Pitkin's influential concept consists of four terms (Dovi 2011): formalistic representation (authorisation (Pitkin 1972, 38) and/or accountability (Pitkin 1972, 55)); descriptive representation (the composition of the legislative body corresponds to the composition of the nation (Pitkin 1972, 60)); symbolic representation (believing in symbols, accepting leadership (Pitkin 1972, 111)); substantive representation (the "activity of representing as acting for others" (Pitkin 1972, 143)). Each element of the comprehensive term needs other dimensions in order to give us a complex (yet controversial or even contradictory) picture of "representation". Pitkin herself uses the German words "vertreten" ("to act in place of another") and "darstellen" ("to stand for another", "standing for something or someone", descriptive and symbolic) (Pitkin 1972, 59) to clarify her theory of representation.

The concise relationship between these four elements has always been under scrutiny by (feminist) scholars. The relationship between descriptive and substantive representation appeared to be of particular interest, reflecting the sheer number of female representatives in relation to their authority and their ability to assert women's political interests. The discussion that was coined by the term "critical mass" also belongs to this discourse. Gender quotas were regarded as the most elegant way to guarantee numerical and intentional justice as well as the potential of far-reaching social change. Considering the need to take women's experiences into account, scholars in the field of gender policies most recently strongly advocate substantive representation as the only sufficient means to assure fair representation in the broader sense of Pitkin's and Phillips' concepts.

It is still controversial to what degree the quota type (legal quotas or party quotas or reserved seats) influences the political outcome, even though one finding seems to be more or less unanimous: "[...] backed up by an active women's movement, electoral gender quotas do represent one of the most efficient measures for increasing women's representation"

(Dahlerup and Freidenvall 2003, 21–23). All authors in this part of our volume discuss this crucial point.

#### 4 THEORETICAL APPROACHES AND RESEARCH QUESTIONS

Our book is not based on a single theoretical approach. There are, nevertheless, some theoretical approaches, which we would like to test with regard to their explanatory force. Beate Hoecker and Gesine Fuchs state that institutions, socio-economic structures, as well as political culture and socialisation form a “Magic Triangle” of closely linked factors. According to their model, cultural change is the most decisive of these factors, exerting a long-term impact on the political participation of women (Fuchs 2006). A different model, on the other hand, states that only fast-track solutions like quotas or direct financial incentives lead to significant improvements in the participation of women, and to noticeable progress in gender equality (Holtkamp and Schnittke 2010). Against the background of these two theoretical alternatives, we study both the effectiveness and success of political measures, and the relationship between fast-track solutions and cultural change. We will try to associate the three content-related parts of our book—economic sphere, family and political representation—with the edges of the “Magic Triangle”, in order to evaluate the effectiveness of the scrutinised measures and the relationship between the fields in which they are introduced. What are the relationships between fast-track solutions and long-term cultural changes? Is it possible to foster cultural change through far-reaching equality-oriented measures? Alternately, are gender cultural attitudes a prerequisite for the functioning of equality reforms? The relationship and the interplay of cultural factors and reform measures is one of the core interests of our book. We thereby follow the way a policy “moves” through the policy circle, beginning with the problem definition and agenda setting, then moving on to the policy development and implementation and leading up to the policy outcomes and impacts.

We are also interested in political actors; especially state feminists and women’s or civil movements, non-governmental organisations (NGOs) or feminist networks. Do they make a difference with regard to feminist agenda setting or gender equality outcomes? Another important issue is political framing. We are asking for the discursive framework and the cognitive meanings used by actors to enforce their political concerns. Does the line of reasoning make a difference with regard to the acceptance of

equality measures, on the one hand, within politics and, on the other hand, by the general public? What is the influence of symbolic meanings on gender cultural changes and societal transformation in relation to empirical, inequality-related facts and politically enforced equality laws? We are, furthermore, interested in learning more about successful gender equality policy frames since the turn of the millennium. Which symbols, meanings and arguments are assertive and convincing? But framing is not possible without “real” policies. Therefore, we are also interested in the evaluation of policy instruments and resources that support gender equality sustainably.

## 5 CONTRIBUTIONS TO THE VOLUME

After an introductory perspective covering the European Union as a whole, three comparative case studies will explore the nature and impact of central gender equality policies in the economic sphere within individual European countries. *Francesca Bettio* takes a closer look at European women’s integration in the labour market, wondering whether we have experienced a “quiet revolution” since the turn of the millennium. By analysing the latest data on women’s work and earnings, Bettio explores whether or not improved reconciliation policies and a considerable increase in women’s employment, have led to a higher level of equality between women and men in households. She also asks if women are close to overcoming secondary earner status, and if European family policy significantly contributes to this area. Furthermore, she analyses the reasons for differences between EU member states, especially with regard to the economic crisis.

*Sophie Rouault* compares the (re-)introduction of gender quotas on corporate boards in public and private companies in France and Germany, investigating in particular the phenomenon that this type of gender policy seems to currently be favoured by conservative governments. She presents the design of corporate quota regulations in the context of their respective employment and welfare state regime, claiming that it is symbolic policy making in both countries. Rouault argues that quota regulations on the highest level of economic governance created a shock in the companies, but earlier quota policies in the field of employment and a combination of arguments, based on economic as well as on social rationale, made these measures acceptable. Despite their symbolic character, these quota policies have an important potential for change, as they tend to improve the gender culture in the economic sphere.

*Cécile Guillaume* examines the implementation of public policies to reduce the gender pay gap in France and the UK. She compares the role of trade unions and the relationship between collective bargaining and litigation and their role in enforcing equal pay in both countries. She argues that in the UK, mass litigation has revealed that women's work is largely undervalued and consequently has led to the development of comprehensive methods of job evaluation in order to overcome direct and indirect discrimination. Guillaume investigates why, in contrast to the UK, litigation is rarely used by trade unions in France to enforce equal pay for women and men.

*Roland Erne* and *Natalie Imboden* look at gender and nationality in Switzerland, comparing the setting and the effects of two different policies on equal pay. They investigate the role of different actors and the use of different policy frames during the policy-making process. Erne and Imboden argue that the anti-discrimination measures foreseen in the Agreement with the European Union on Free Movement of Persons from 1999 were much more successful than the equal pay policy regime set up by the Gender Equality Act in 1996, as they were framed in terms of providing a fair level playing field for competing firms, in contrast to the individual anti-discrimination argumentation of the gender equality policies. The former argumentation might therefore inspire future gender equal pay policies as it was more readily accepted by the employer associations.

The second section of the volume focuses on gender equality within the realm of the family. All three contributions to this part of the book study family policies and reconciliation policies (or parts of it) in different countries with regard to their effects on gender equality. The focus lies mainly on mothers' labour market participation on the one hand and on fathers' caring engagement on the other. All of them conclude some progresses through fast-track solutions like father's quotas or incentives for shared parenting, but none of them work without shortfalls. In addition, we search for ways to overcome the secondary earner status of mothers and secondary carer status of fathers—either through (fast-track) policy measures or through cultural change (gender).

*Sigrid Leitner's* article deals with reconciliation policy, which she analyses within a variety of familialism frameworks which she herself developed a number of years ago (Leitner 2003). For her comparison, she has chosen Germany, Austria and Iceland. Focusing on childcare provision and parental leave regulations, she gives an overview of recent family policy developments, and analyses the outcomes of these policies with regard to

gender equality. Her conclusion shows that the countries are still unable to overcome the secondary caregiver status of fathers, mainly due to each regime's shortfalls.

*Dorota Szelewa's* contribution takes us to Poland, where she begins by giving us an overview of the developments in family policy since the 1989 evolution of the welfare state. In the same way as Leitner, she uses the varieties of familialistic frameworks for her time comparison. Poland's family policy, which can be labelled as implicit familialism at the beginning, has changed. Szelewa traces the development towards explicit familialism by focusing on parental leave reforms, childcare services and cash benefits. From a gender equality perspective, these policies, which have been strengthened through the new right-wing coalition in effect since 2015, impede mothers' labour market participation and fathers' care sharing.

This part of the book ends with a comparison between Swedish and German parental leave schemes. *Diana Auth* and *Hanne Martinek* have chosen two different welfare states and gender regimes for their country comparison. They have developed an analytical framework in which the aims, instruments and outcomes of recent parental leave reforms in the two countries are scrutinised through the lens of two approaches: the social investment approach and the gender equality approach. By doing so, they are able to work out differences in policy framing, policy design and policy effects. Interestingly, different aims still lead to the use of very similar instruments.

While this part of the book names the central preconditions under which women (and also men) can take part in political activities, the following three contributions "tally" and compare the numerous and content-related chances of a just participation/fair share of women in the respective national participatory institutions.

*Catherine Achin* focuses on one of the most innovative instruments in the field of European gender policies since the turn of the millennium: the French parity law that was introduced in 2000. Fifteen years later, Achin evaluates the decisive factors of progress as well as the overall outcomes of this great innovation. Achin's own surveys conducted between 2001 and 2014 show the ambivalent effects of the parity law. Most interestingly, Achin argues that the striking success is the result of a conservative discourse stressing parity instead of equality. Proponents of the law triggered a "revolution" but the impact on the traditional gender order was rather limited.

*Gesine Fuchs*, together with Beate Hoecker, the creators of the "Magic Triangle", tests her own thesis in the light of new data and discussion. When the model was originally developed, Fuchs and Hoecker were

convinced that political culture made the difference in women's political representation. Doubts as to its validity had been expressed ever since its conception. Fuchs and *Christine Scheidegger* therefore took the chance to re-examine the original thesis. Using a variety of methods, Fuchs and Scheidegger ask what accounts for the increase in women's representation, comparing distinguished groups of European countries. The institutional side of the "Magic Triangle" proves to be of greater significance than expected!

*Jutta Hergenhan's* starting point is the famous global ranking, published every half year by the Inter-Parliamentary Union (IPU). Starting in 2003, and despite having the highest female-to-male ratios in their own Parliaments (lower house), female scientists and activists in Europe have had to watch as non-European countries, most notably Rwanda, were listed in leading positions. Hergenhan has, therefore, taken a comparative look at Rwanda and the Nordic countries, trying to identify reasons that would explain the shift in the IPU list. Hergenhan concludes that situations of conflict and renewal may allow for the adoption of innovative political strategies.

Finally, we would like to mention that this book evolved from the international conference "Gender Equality since the Turn of the Millennium: Rethinking Successes and Innovations" which took place at the University of Giessen on the 8th and 9th May 2015. Most of the authors of this book delivered a lecture or chaired a panel at the conference and have agreed to publish their research results within this book. We would like to thank them, as well as the other speakers of the conference, for sharing their highly interesting insights into their fields of research. It was a pleasure to co-organise the conference together with our partners, Christina Klenner of the Institute of Economic and Social Research (WSI) within the Hans Böckler Foundation in Düsseldorf and Margret Krannich of the Heinrich Böll Foundation Hessen. We are grateful to them and to Nadyne Stritzke, the Women's Officer of the University of Giessen, for their financial and content-related support. We also thank the staff of the Research Group for Gender Studies at the Justus Liebig University Giessen, especially our conference manager Nataliia Ivanusa and Anne-Kathrin Weber, who helped to organise the conference, as well as Tana Morin for proofreading the book and Annaluise Ohland for controlling the style-sheet and for formatting the final manuscript. Our particular thanks go to Sarah Lawrence and Allison Neuburger from Palgrave Macmillan/Springer Nature for their helpful and encouraging support with the publication of this volume.



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PART I

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# Gender Equality in Europe

# Can We Call It a Revolution? Women, the Labour Market, and European Policy

*Francesca Bettio*

## I SETTING THE STAGE

In the USA, the change in women's role in the economy over the last quarter-century has been likened to 'a quiet revolution' by Goldin (2006), and allegedly as a more radical and consequential transformation than the long 'evolution' witnessed in the course of the preceding century. Such views were expressed just before the Great Recession struck. They were probably infected by the economic buoyancy of pre-crisis years, and, as Goldin herself admits, they may have looked rosier through the glasses of the main actors in her story, well-educated American women. A few years on, the so-called Shriver Report (Morgan and Skelton 2014) quenched the optimism about the quiet revolution by taking the perspective of women 'living on the brink, struggling to achieve economic security while also caring for their families'.<sup>1</sup> The report was compiled in the midst of the Great Recession. While acknowledging manifest achievements for women, it also highlighted the downsides, including growing inequalities among women of different ethnic and educational backgrounds and the persistence of wide gaps in earnings and poverty status with respect to men.

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Can we also talk of a quiet ‘revolution’ in the European case? Or has ongoing change being stalled by a much longer recession than the USA experienced? Questions like these naturally arise on this side of the Atlantic because of the much touted ‘European social model’. There is no denying that the European social model has been a hotbed of social and institutional innovations, nor that the effort to further integrate women into the paid economy is an integral part of this model. To my knowledge, however, no attempt has yet been made to assess systematically whether and to what extent such innovations have actually ‘delivered’.

Several chapters in this book can be viewed as tiles of the complex mosaic that needs to be pieced together in order to arrive at an assessment of the European experience. This chapter engages with a more preliminary task, a stock-taking exercise where key developments in women’s labour market position at EU level are reviewed in the light of European policy choices and innovations. The exercise offers a chance to ask some of the big questions that ought eventually to guide evaluation.

The chapter starts by tracing the policy trajectory that the EU has followed in the attempt to mobilize women’s labour supply and foster economic integration. Sections 3 and 4 take stock of change in female employment, pay and earnings. Section 5 relates such change to achievements and shortcomings of reconciliation policy, one of the key approaches that the EU has embraced to assist women’s economic integration. Section 6 resumes the question of whether Europe has witnessed truly revolutionary change in women’s labour market (and economic) integration and highlights the main outstanding issues.

## 2 SUPPORTING WOMEN’S ECONOMIC INTEGRATION: THE EUROPEAN POLICY TRAJECTORY

Europe’s alleged commitment to fully integrating women in the economy has evolved out of the commitment to gender equality which the European Community (EC) has embraced since its very inception in 1957. With its founding Treaty, the EC established the principle of equal pay between men and women ahead of many of its member countries. The focus on individual rights to equality in the 1960s and 1970s prioritized legal action to combat discrimination, with policy innovations primarily confined to milestone Directives such as the equal pay directive of 1975, the directive on equal treatment in statutory and occupational social security scheme of 1979, and thereafter the maternity leave and motherhood safety directive of 1992.

When the limitations of equal treatment legislation had become apparent in the 1980s, attention moved to affirmative action, and the new tool box featured the soft legal stick of Recommendations alongside the carrot of hard money. Funds were allocated to training and Recommendations were made to Member States in areas ranging from sexual harassment to under-representation in decision-making positions. Affirmative Action too soon proved to be a partial answer, or to even reinforce inequality, and left centre stage to a new strategy, that of gender mainstreaming which the 1995 Beijing Conference had freshly introduced.

Two years later, gender mainstreaming was formally adopted in the Amsterdam Treaty as part of the so-called dual approach whereby mainstreaming is flanked by 'specific actions' aimed at eliminating, preventing or remedying inequalities between men and women. In the meantime, other directives of wide-ranging economic implications had come into force, notably the 1993 and 1997 Directives on the organization of working time and part-time work, the 1996 Directive on parental leave, and the 1997 Directive reversing the burden of proof in cases of discrimination.

The stage was finally set for the big policy and institutional innovation of the turn of the century: embedding gender equality into actual economic policy. The European Employment Strategy (EES henceforth) was launched in 1997, shifting the focus of economic (labour and welfare) policy from lowering unemployment to raising employment. Mobilizing women was at the core of this strategy.

Between 1997 and 2002, pursuit of Equal Opportunities was identified as one out of the four policy pillars on which the strategy pivoted. But perhaps the most consequential policy innovation was the introduction of numerical targets for the employment rate (for women and older workers in particular) and for the coverage rate of formal childcare provisions. Implementation of targets, as well as policy guidelines, was entrusted to the so-called Open Method of Coordination, a major institutional innovation combining moral suasion and soft sanctions (Points to Watch and Recommendations) in order to bring national policies in line with European objectives.

Following periodic assessment, the European Employment Strategy was repeatedly reviewed and the objectives redefined. The last major review followed Win Kock's 'sombre' assessment in 2005. Eventually, the EES was embedded in the broader economic strategy (currently the so-called 2020 Strategy) with a consequent loss of primacy, visibility and scope. In the process, sex-specific employment targets have been abandoned in

favour of a unisex target of a 75 % employment rate for 20–64 year olds to be reached by 2020. For want of better specification, the unisex target is often interpreted as applying to men as well as women.

While the demise of the EES as an independent policy platform considerably weakened direct pursuit of equality-enhancing labour market goals, the repercussions on reconciliation and welfare policies were less obvious until some years into the crisis. On the contrary, the Council issued a directive in 2010 to extend minimum, paid, parental leave to four months. Due to opposition from some countries, the Council stopped short of enforcing the so-called father's quota provision, namely non-transferable entitlement to one out of four months to the 'other' parent (the father in the vast majority of cases), but it did encourage Member States to introduce similar provisions.

Eventually, however, a protracted financial crisis diluted the commitment to devolving resources to something that was no longer seen as a reliable source of growth—be it gender equality in general or life–work balance in particular. Developments at the top of the EU's political establishment compounded the effects of the crisis. In 2011, the Equal Opportunity Unit was moved—staff and budget—from the Employment and Social Affairs Direction (DG XII) to the Justice Direction (DG V). Gender equality was recast within a human right and anti-discriminatory perspective, leading to novel policy priorities and different innovations. One such innovation was the 2011 pledge to achieving 40 % representation of women on the boards of publicly listed targets by 2020 (Women on Board campaign, WOB for short).

Conceived as the flagship initiative of a wider campaign to reduce the under-representation of women in decision-making positions, WOB also marked a shift from empowerment from below—via full integration of all women into the labour market—to a top–down approach based on the assumption that more women in powerful positions would facilitate the integration of the women (see also Rouault in this volume). Novel campaigns against trafficking and violence against women were also given high priority in the post 2010 equality strategy. Yet another significant development was the Court of Justice decision in favour of the so-called unisex rule in the calculation of insurance premiums and benefits in 2011. Thus, for example, women in the EU who paid insurers the same pension premium as men can no longer receive lower annuities on the ground that they live longer and are therefore likely to draw their pension for longer.

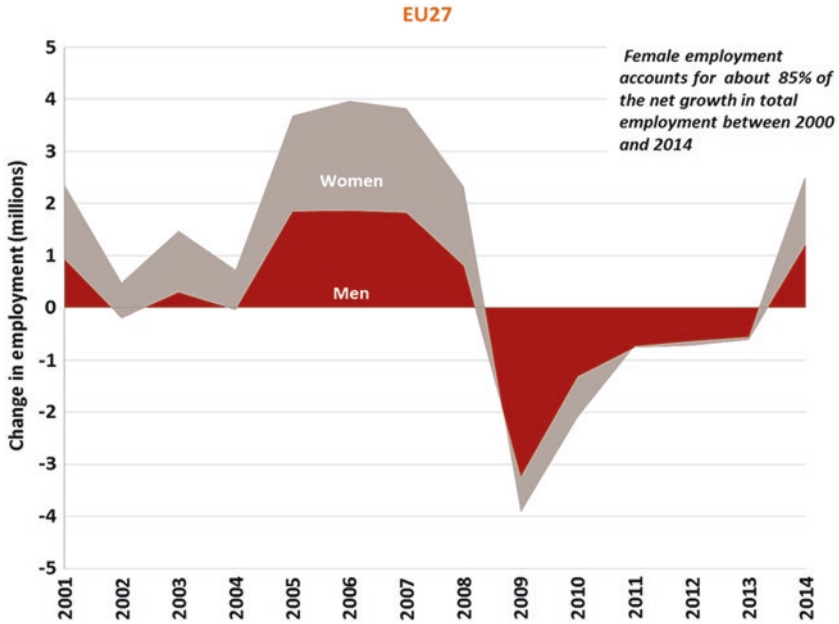
There is no denying that empowerment from above ought to complement empowerment from below. Nor can it be denied that there may be important synergies between human rights objectives and economic goals—for example, reducing economic violence reduces economic costs to society. However, complementarity and synergy between different objectives are no longer guaranteed if funding and policy action prioritize some at the expense of others. Although it may be too early to conclude with certainty that this has actually happened in recent years, some scholars claim that it has done so (Smith and Villa 2010; Kantola 2015; Jacquot 2015; Perrons 2015) and many advocate re-grounding gender equality in economic policy rather than relying primarily on anti-discrimination legislation or, more generally, in normative action.

To sum up, institutional and policy innovations furthering women's integration into the (paid) economy have come full circle in the EU. Initially driven by the goal of levelling the playing field by means of equal treatment legislation, they turned to Positive Action for inspiration in the 1980s in the attempt to overcome the limitation of a merely legal approach. Heyday was reached at around the turn of the century when gender equality became part and parcel of the pursuit of core economic goals through the Employment Strategy. At that time, the social engineering ambitions of gender mainstreaming seemed equal to the task, but the magic lasted less than a decade. When the Employment Strategy was confined to backstage, political leadership changed and economic policy was overwhelmed by preoccupations with the financial crisis, the economic dimensions of gender equality lost priority in favour of a human rights and anti-discrimination perspective, which inevitably prioritizes legal intervention.

Yet one may expect so remarkable a spate of innovations to have left some mark. In the following sections, I shall review key labour market and social policy developments from the perspective of European policy, that is judging outcomes against agreed targets and explicit goals. Later on in the paper, I shall broaden the perspective and take a more independent stand.

### 3 STOCK-TAKING: EMPLOYMENT

In the last decade and a half, female employment has contributed to the net growth in total European employment by about 85 %, thanks to stronger net additions before the recession struck and more contained losses throughout the recession (Fig. 2.1). All this vindicates in retrospect the



**Fig. 2.1** Contribution of female employment to total employment growth. *Source:* own calculations based on Eurostat online Labour Force Survey data (lfsa\_pganws series)

assumption originally underlying the EES that women were and remain practically the only ‘indigenous’ labour reserve Europe can draw upon in order to expand employment. Nevertheless, net employment growth over this period (2000–2014) was modest because of the duration and severity of the crisis: it amounted to between 13.5 and 15.5 million workers depending on which working age group is chosen.<sup>2</sup> As a result, the agreed employment target has not been met and is unlikely to be met by the 2020 deadline.

Let me expand on this a little. If we project the growth in the female employment rate that would be observed from 2015 assuming that it will grow at the average pace actually recorded between 2002 and 2014, we find that we would have to wait until 2037 for women’s rate to reach the 75 % mark in the EU28 as a whole (Fig. 2.2: the pale grey line).

One of the main problems behind such a disappointing projection is the fact that convergence in female employment between laggard and leader



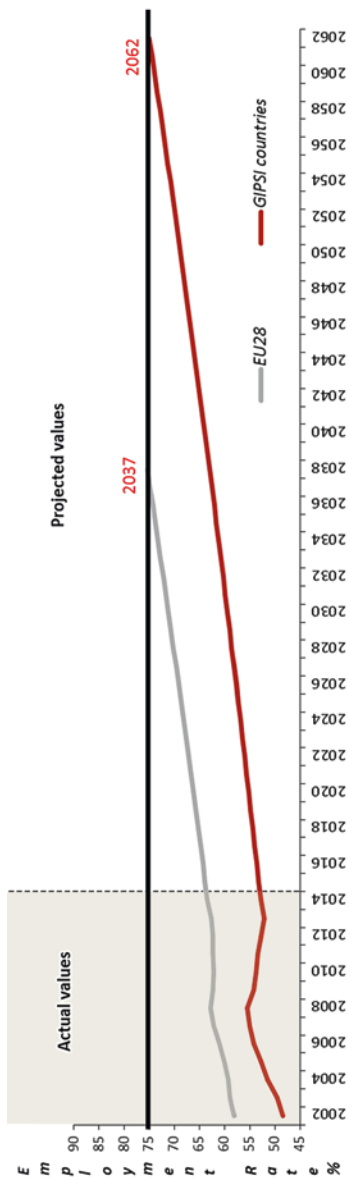


Fig. 2.2 Female employment rate projections based on average growth rate 2002–2014 (20–64 years of age).  
 Source: Eurostat online database, own elaborations (lfsa\_pganws series)

EU countries was stalled or even reversed during the crisis. Consider for illustration the so-called GIPSI group of countries, an acronym for Greece, Italy, Portugal, Spain and Ireland.<sup>3</sup> Taken together, GIPSI countries account for more than a quarter of the total working-age population within the EU28. However, the rate of employment for women in this group of countries was about 10 percentage points lower than the EU average at the beginning of the period and as much or equally lower at the end of the period. In the years that preceded the crisis, catching up by GIPSI countries was visible but the gap reopened during the crisis. The end result is that while women still represent the largest reservoir of labour for future employment expansion in several European countries, the largest potential remains trapped in laggard countries.

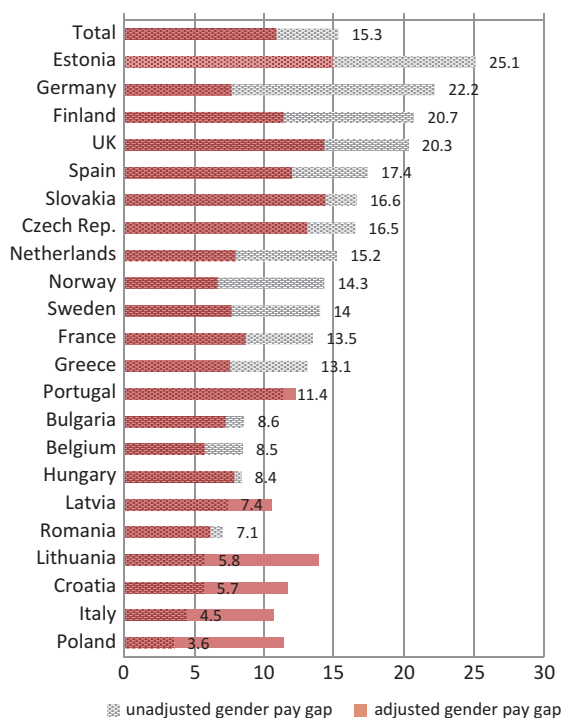
As well-known, the GIPSI group of countries have been the main recipients of debt consolidation provisions ('austerity') starting from 2010 to 2011. Hence, the first 'big question' that will need to be addressed in any future policy evaluation exercise ought to query policy consistency at EU level: did fiscal consolidation end up thwarting achievement of a different but important goal which the EU embraced, namely mobilizing women's labour potential?

#### 4 STOCK-TAKING: PAY AND EARNINGS

Within households, decisions about who works, where and for how many hours clearly depend on how much women earn or can earn in comparison to men. Any pay discrimination affecting women, therefore, distorts their decisions against their employment. Commitment to no pay discrimination or equal pay dates back to the founding treaty of the European Community and it remains a core objective of today's Union. No numerical target has ever been set, but the final benchmark can only be zero discrimination. Although equal pay has not been achieved in Europe, the majority of European countries do relatively well by international standards. According to the latest statistics from the Organization of Economic Co-operation and Development (OECD) statistics, 12 European Member States out of the 20 included in a 34-countries group of OECD countries recorded pay disparities between women and men lower than (the 34 group) average; and 16 EU countries out of 20 have done better than the USA.<sup>4</sup>

Workers cannot choose their wages, while they may have greater choice of hours of work. Though some end up working more hours than they desire and some less, hours of work are generally viewed as resulting from choice more than discrimination. For this reason, the gender pay gap, which measures pay disparities on an hourly basis, is thought to be the

appropriate indicator to capture discrimination. Raw data yield the so-called unadjusted gender pay gap, the percentage share by which the wage of an average male worker exceeds that of an average female worker. The 2003 figure was 16.4 % for the EU27. However, no allowance is made in this figure for the fact that the average man may differ from the average woman; for example, he may be older and more experienced. As a rule, therefore, only a fraction of the unadjusted gap actually reflects potential discrimination. This part is the so-called adjusted gender pay gap and it essentially compares wages for women and men with the same (measurable) characteristics. The latest estimate for the adjusted gap is 10.9 % for 2010 and refers to 22 European countries where the unadjusted gap was 15.3 in the same year (Fig. 2.3). Hence, discrimination is unlikely to



**Fig. 2.3** Adjusted and unadjusted gender pay gap, 2010 (%)

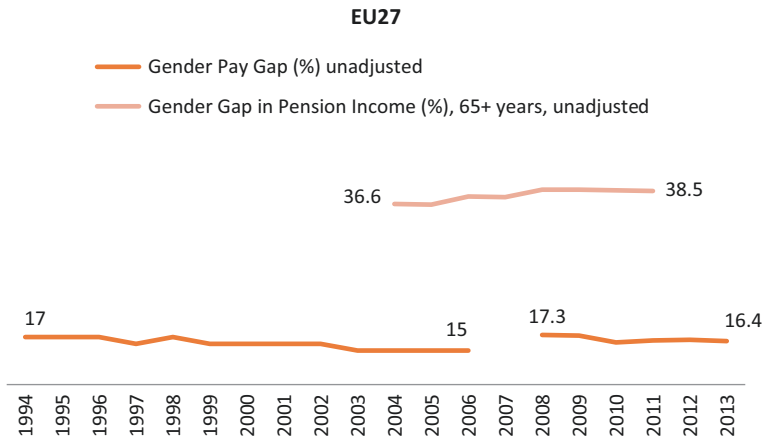
*Sources:* Structure of Earning Survey Data elaborated by Boll et al., 2016:11

exceed 11 % of average male wages in a very large subgroup of EU countries; and it might be even lower.<sup>5</sup>

Can we conclude that full success in fighting discrimination is within reach and we shall be approaching truly equal pay in a matter of years? Not quite yet. Firstly, there has been very little progress over the last 20 years or so. Hardly any reduction has taken place in the gender pay gap since the early 1990s, and very slow progress cannot be blamed on the crisis (Fig. 2.4): if anything, the crisis reduced the gap by levelling all salaries downwards (see Bettio et al. 2013). If we go by the experience of the last 20 years, therefore, we have few reasons to expect that full equality of pay will occur any time soon.

Secondly, disparities between women and men in pay per hour matter for discrimination, but what ultimately influences decision-making within the household (and outside) is who ‘brings home the bacon’. In other words, it also matters how many hours women work, as well as how many of them work at all.

Europe is not doing terribly well in this respect. In 2010, the share of partnered women of working age earning from zero to, at most, 45 % of the combined labour income of the couple was over two thirds.<sup>6</sup> Given that



**Fig. 2.4** Gender pay gap and gender pay gap in pension income (EU 27, unadjusted)

*Source:* Eurostat Structure of Earnings Survey for gender the pay gap; EU-SILC for the gender gap in pension income. The gender pay gap between 1994 and 2000 was estimated by Eurostat (series *earn\_gr\_hgpg*). The gender gap in pension refers to average pension income (all pensions) and is drawn from Tinios et al. 2015: 10) and additional data elaborated by the authors.

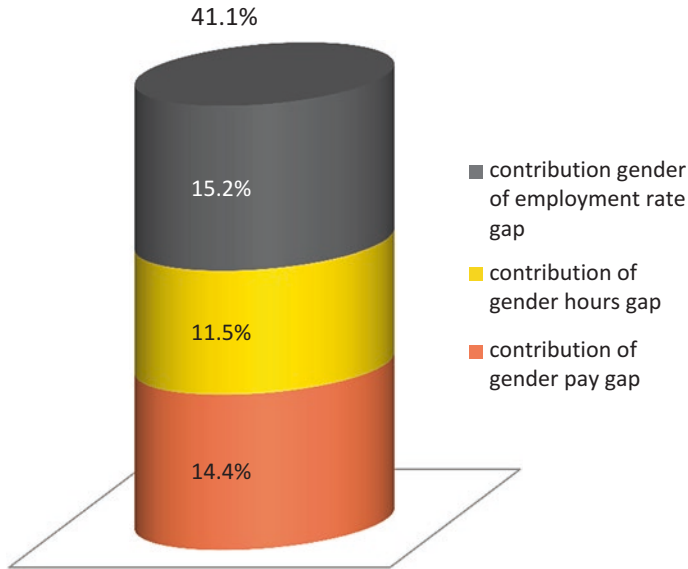
the vast majority of these women contributed less than 40 %, we can broadly think of them as ‘secondary earners’. If a stricter definition of secondary earners is adopted, this share would reduce but it would still remain ‘important’.

To understand what might have happened, consider how decisions about hours of work are made within households. They are clearly influenced by wages (pay per hour) but also respond to reconciliation provisions, social norms, labour market regulations, and, of course, macroeconomic conditions. A synergic combination of labour market de-regulation, incentives to part-time and the recession, accounts for a remarkable increase in part-time employment in Europe since the turn of the century. Nearly two thirds of the net growth in female employment over this period (2000–2014) was due to part-time. Before the crisis (2000–2008), net growth in women’s employment amounted to 11.4 million units, with part-time employment contributing nearly half of this increase (about 5.3 million). During the crisis, part-time work was used also to avoid redundancies and therefore grew at the expense of full-time employment: between 2008 and 2014, the number of women employed part-time rose by 1.9 million, while total female employment declined slightly.<sup>7</sup>

When a robust increase in part-time is compounded by negligible progress towards equal pay, even a large increase in female employment may not substantially reduce the share of secondary earners among women. Recently, Eurostat proposed a statistics that conveys this message simply and effectively. It is called the gender overall earnings gap and measures how much the average woman takes home in (gross) earnings per month compared to the average man. Women and men who do not work (and do not earn) are also included.

The gender overall earnings gap is rather high in Europe: 41.1 % in 2010 (EU28). It can be decomposed into three parts. The first part reflects gender differences in wages (hourly pay), the second accounts for gender differences in the employment rate, and the third is due to gender differences in hours of work (Fig. 2.5). As shown in the graph, at EU level, the combined effect of lower wages per hour (the equal pay gap) and fewer hours of work (the [reverse] part-time gap) makes up nearly two thirds of the overall gap.

Being a secondary earner has implications that go beyond earnings and are especially important for women in an ageing society. With transition from working to retirement age, secondary earners inevitably tend to become low pension earners. Either they did not pay enough contributions to be entitled to a contributory pension or their life-time contributions payment is low. There is, in fact, an old-age analogue of the gender overall



**Fig. 2.5** Gender overall earnings gap in %, EU-28, 2010

*Source:* data from Eurostat 2016, Gender Statistics, Statistics Explained: [http://ec.europa.eu/eurostat/statistics-explained/index.php/Gender\\_statistics](http://ec.europa.eu/eurostat/statistics-explained/index.php/Gender_statistics)

earnings gap which has been neglected until a few years back in Europe. I am referring to the gender gap in pension income (Tinios et al. 2015), which measures the percentage difference in total pension income between elderly women and men. Unsurprisingly, the total earnings gap and the gender gap in pension are of a very similar order of magnitude: the latter reached about 37 % in 2004 and rose to 39 % in 2011 (Fig. 2.4). As Tinios et al. make clear, moreover, there are no compelling reasons to expect fast decline in the gender gap in pension in the near future.

Let me now return to the question of what role EU policy and institutional innovations may have played in achieving greater equality in pay and earnings. European laws and institutions consistently fought any discrimination, first in pay and more recently in pension rules (recall the ‘unisex rule’ for calculating premiums and benefits in private insurance contracts). However, the Union’s toolbox to fight discrimination has largely featured legal and judicial tools. These may succeed in debunking large chunks of discriminatory practices when first enforced, but are bound to see their potential fade over time.<sup>8</sup>

## 5 STOCK-TAKING: RECONCILIATION POLICY

The problem is that equality of earnings presupposes equality of pay but is several steps removed from it. For the average woman to earn as much as the average man of comparable education and experience, the further requirement is that income roles be practically interchangeable, with women being as likely to be primary (or secondary) earners as men, that is, as likely to be in the labour market, to work a comparable number of hours and so on. In order to foster interchangeability of income roles a wider range of policy tools are needed, from taxation to employment and so-called reconciliation policy.

All this raises my second ‘big question’, namely whether and to what extent the goal of maximizing the number of women in employment— independently of hours or days worked—has been pursued disregarding repercussions on the asymmetry of gender income roles. My intuition is that this may have happened because something went wrong with the design and implementation of reconciliation policy. The next two paragraphs and the next section explore this intuition while reviewing policy developments.

In around the 1990s, the idea took shape of a three-pronged reconciliation approach. Inspiration came from the Nordic and French ‘care regimes’ which appeared to have achieved high rate of female employment and near-replacement levels of fertility by offering an efficient blend of three types of resources to combine work and family: care services, monetary benefits, and time-off and flexible time (Bettio and Plantenga 2004). Flexible time, part-time and leaves off work could be used in different proportions to provide own (unpaid) care work as needed at home. Monetary benefits, on the one hand, and services in kind, on the other hand, could be used to outsource housework and care, thus reducing the need to take time off and any adverse repercussions on employment that may go with it.<sup>9</sup>

This three-pronged approach was part and parcel of the European Employment Strategy, but it has fallen short of aspirations. Was the supply of provisions inadequate, or did the problem lie in the design and balancing of provisions? To complete the stock-taking exercise of the previous sections, in the next section I shall review developments in formal childcare and leave policy at EU level keeping these questions in mind. Once again, the aim is to partially explore possibilities rather than provide full answers. All the more so since the focus will be rather limited. I shall in fact focus on childcare and leaves while neglecting monetary benefits, which would require a lengthy digression. I shall also disregard care for the elderly and flexible working, just to mention important provi-

sions that ought to be considered in an exhaustive account. Moreover, I shall confine attention to the supply (availability) of (child) care services while neglecting issues of affordability and quality of services.

### *5.1 Has the Reconciliation Approach Delivered? Care Services and Leave Policies*

Before reviewing facts and figures, let me question some basic assumptions underpinning faith in reconciliation policy as an approach capable of boosting employment while also catering to other family goals, from raising the desired number of children to ensuring their well-being and that of their parents.

Starting with childcare and female employment, is the assumption that more supplies translate into higher female employment grounded in theory, evidence, or both? Theory first: from the standpoint of mainstream economic analysis, the crucial links between childcare provisions and employment or wages are relative prices or costs. In principle, lower costs of any childcare provision should encourage female employment. Feminist research and several econometric studies, however, indicate that availability may matter as much as or more than price, depending on the economic context (Gustafsson and Stafford 1992; Chiuri 1999; Del Boca 2002 to cite just a few well-known studies).<sup>10</sup>

The availability of publicly subsidized services for children has, in fact, been found to significantly increase female employment in countries as different as Spain and Germany (Nollenberger and Planas 2011; Wrohlich 2011). Moreover, recent research by Thévenon (2013) on OECD countries between 1980 and 2007 found that childcare coverage did foster female employment: the effect was robust, though small. Research with a feminist leaning underscores the importance of availability from a different perspective, call it the ‘marketization’ hypothesis: bringing care work to the market ‘frees’ female labour from commitment to unpaid work and at the same time boosts demand for such labour (Bettio and Plantenga 2004; Freeman et al. 2005).<sup>11</sup>

Clearly, a few scholarly references selected out of the large body of literature that exists on childcare and female employment cannot be conclusive, but the point I am making is that there is enough in the literature—theory or evidence—to make a case for expanding childcare facilities, as Europe actually set out to do. Hence, the next question becomes how has the policy unfolded.

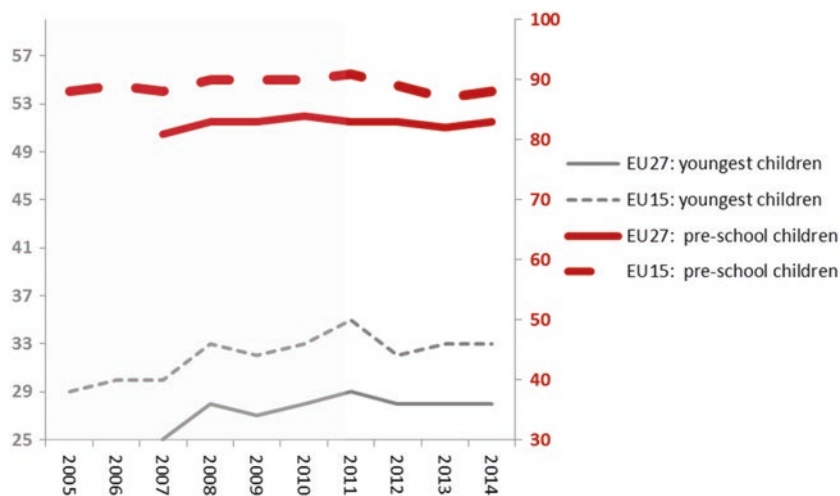
Two headline targets were adopted at the Barcelona meeting. They set a 33 % coverage rate for formal care of toddlers (below three years of age) to be reached by 2010, and a 90 % target for care of preschoolers (from three years to compulsory school age) to be reached by the same date. Actual



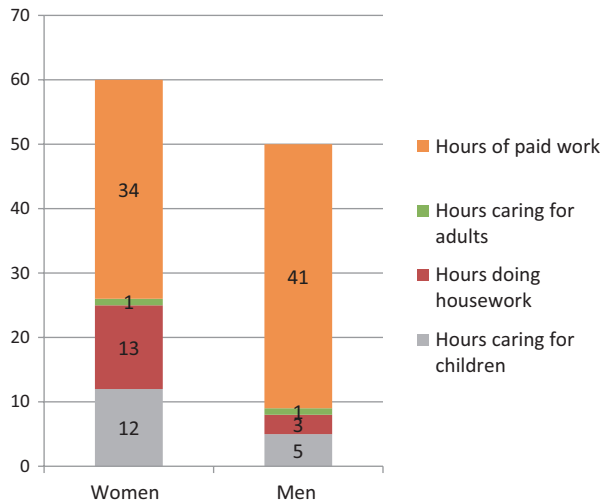
progress can only be measured starting from 2005 for the EU15 group of countries and from later for the EU27 or EU28 groups (Fig. 2.6). Progress was slow but steady within EU15 where the coverage rate for the youngest children reached the agreed target in 2008. However, the trend broke with the onset of the crisis, with later values hovering around the target until 2014 (the latest available year). In the whole of Europe (EU28) ten Member States had reached the target for toddlers by the agreed deadline (2010), but the number has not changed since. Coverage was still five points below the target in 2014, although progress was clearly visible up to 2011.

For preschool children, advancement towards the Barcelona target of 90 % was slower: the 2014 values are 88 % for EU15 and 83 % for EU28, respectively. In the case of preschoolers, it is even more apparent that the positive trend definitely broke in 2011, with the following years recording a slight decline in both macro areas (Fig. 2.6). However, one piece of good news in this mixed picture is that a consistent shift has taken place in favour of full-time care facilities.

To sum up on advances being made, ‘glass half full’ appraisers would stress that EU policy did succeed in creating a commitment on the part of Member countries to enhance care infrastructures for young children as several



**Fig. 2.6** Rate of coverage of formal care (percent of respective population)  
*Source:* Eurostat online database, own elaborations



**Fig. 2.7** Time distribution between men and women *Sources:* European Working Condition Survey 2010, Eurofound (courtesy of J. Ignacio Gimenez-Nadal)

of them struggled to respect their commitments until well into the crisis. But ‘glass half empty’ appraisers would point out that austerity policy largely takes the blame for reverting the trend, since the clearest divide can be traced to around 2011 when debt consolidation measures began to bite.<sup>12</sup>

The case for leaves off work is more controversial. Again, let me start with briefly reviewing theory on the relationship between female employment and leaves off work. Mainstream labour supply and human capital theory maintain that long leaves hinder employment and reduce wages because they impose extra costs on firms and cause obsolescence of human capital. Econometric evidence yields much more nuanced results. Earlier econometric studies found that leaves have adverse effects on female wages and career, but not on female employment (Ruhm 1998). However, the length and design of leaves clearly matters for employment (Gornick et al. 1997; Bruning and Plantenga 1999). Ondrich et al. (2003), for example, found that in Germany the probability of re-entry was negatively correlated with leave duration. In the same vein, earlier OECD studies found that the optimal length of the leave for employment and wage-related outcomes does not exceed six months (Jaumotte 2003; OECD 2007, 119). The more recent evidence is reviewed by Dearing (2015)

and does not fundamentally alter the above findings. The main difference is additional evidence in favour of weakly adverse employment effects. Thevenon (2013) in particular finds that (i) there is no consistent evidence that well-designed leaves hinder female employment, and (ii) the employment impact of parental leaves may be uncertain depending on length and design.

We may therefore safely conclude that employment effects are uncertain but negative repercussions on career and wages are probable. However, leaves address demands other than protecting or fostering female employment: sustaining fertility, increasing well-being of mothers (and children) and reducing existing gender imbalances in housework and care work. This justifies devoting specific attention to accomplishments in this area.

Together with childcare and part-time, leave provisions are at the core of the European approach to reconciliation, as already noted (see also Auth and Martinek as well as Leitner in this volume). However, gauging developments at EU level is problematic because no target or benchmark has been set, information gaps are still important and national regulations remain complex. The latest innovation in EU leave policy ([Directive 2010/18/EU](#)) has been to ensure a common floor for parental leave, with four months granted as individual entitlements, not transferable among parents and covered by the right to go back to the same job and to change working hours. As noted earlier, the Directive stopped short of regulating pay and introducing provisions to encourage fathers to participate.

This new Directive continues the tradition of entrusting leave policy almost exclusively to legal provisions with a view to effectively ensuring ‘entitlement floors’, while leaving Member States free to ‘improve’. The problem is, of course, that Member States are also free to worsen or do little else. Across European Countries, therefore, the picture is rather diversified (European Parliament 2015). To summarize it with a few facts and figures:

- Maternity leave entitlements currently range from the minimum of 14 weeks ensured by the 1992 Directive to almost 59 weeks, with 23 weeks average duration. The leave is usually well-paid (90 % income replacement, on average) but better so in Western and in Eastern countries, where, however, duration is longer (EP 2015: 32–39). The take-up rate is generally high.
- The average (statutory) parental leave is long but not well-paid: 86.9 weeks, practically 20 months, with a good 13 countries positioned above the average. Income replacement reaches 50 %, on average,

although seven countries do not offer any compensation. Women disproportionately take up parental leave, whereas only one father out of ten entitled to the leave takes it (European average). It is nevertheless encouraging that in countries like Sweden the share of fathers taking parental leave goes up to more than four out of ten<sup>13</sup> (European Parliament 2015: Sect. 9.3 and Fig. 23).

- The vast majority of EU countries (23 out of 28) offer paternity leave of short duration (12 and a half days on average) and better income replacement than maternity leave (92 % on average; EP 2015: 59–64).
- Less than a third of EU countries offer so-called father’s quotas or bonuses in order to encourage fathers to take parental leave, but only Scandinavian countries and Germany offer well-paid, fathers-only leave of at least one month.

To sum up, we can hail the effective implementation of minimum maternity and paternity leave entitlements in all the Member Countries, which is no mean achievement in comparison to many countries outside Europe. But we must acknowledge that very long parental leaves are still widespread, the take-up rate for men is far too low, some countries offer paternity leaves whose significance is little more than symbolic, while a small minority offers real, but still limited, incentives to fathers.

Looking ahead, should EU policy go beyond what it has already achieved? Here is the third big question that this stock-taking exercise raises. As with the other ‘big questions’, an informed answer calls for proper policy evaluation which I leave to future research, while here I shall venture some preliminary indications.

First, formal entitlement does not necessarily mean actual entitlement; hence, a continuing goal of leave policy should be to ensure effectiveness of leave provisions. In present-day Europe, younger workers are increasingly hired on non-standard, often discontinuous contracts, and they are much more likely to work as self-employees or to experience recurrent unemployment than in the past. Since leaves have often been designed for a much less ‘liquid’ labour market, younger workers’ access to even basic entitlements is at risk in several countries. Hence, we should go for ‘different’ rather than more or longer leave provisions, where different means first and foremost different leave designs.

For example, a fair amount of consensus—supported by persuasive evidence—has gathered around the view that the European leave policy

was not designed for and has not helped rebalance the division of labour within households (Bertrand 2015; Hirschmann 2015). Earlier policy and scholarly debates were in fact monopolized by issues of length and income entitlements. The fact that women would be (or should be) the main beneficiaries of leaves was hardly questioned, the implicit assumptions being that higher labour market involvement would be enough to radically change traditional gender roles within households (if only the worst repercussions of leaves on employment, earnings and career for women could be avoided). We now know, however, that gender imbalances in time use remain high across European countries: in 2010 and on a weekly basis the average European woman still worked ten hours more than men in total (paid or unpaid work), with unpaid work disproportionately contributing to the ten hours gap.

Given mounting criticism of the ‘old’ leave policy as cock-eyed and targeting mothers rather than both parents, it is the overall design of leaves, and not just pay and length that needs revision. Fagan and Norman (2015), for example, identify six requirements that a well-designed parental leave should satisfy: individual entitlement, pay, a design allowing for flexible fruition, support for reintegration into employment, coordination with other reconciliation provisions, and features encouraging father’s participation. Recasting leave design in order to cater to men as well as women would also suit a more ‘liquid’ labour market where less structured, and more intermittent employment trajectories are becoming common among younger men as well as younger women (Fabrizi and Raitano 2012).

## 6 CAN WE CALL IT A REVOLUTION?

Thus far, developments in key labour market outcomes for women have been reviewed from a European policy perspective. However, the opening question in this essay, namely whether European women’s progress towards integration into the labour market (and the economy) could amount to a ‘quiet revolution’, was asked from a different, broader, perspective. What can we conclude if we embrace this perspective?

Let us go back to Goldin’s idea of a ‘quiet revolution’. She distinguishes earlier ‘evolutionary’ phases from a recent phase which she calls ‘revolutionary’ and whose inception she dates to the late 1970s for the USA. In her view, advances in employment such as increases in the employment rate belong to the ‘evolutionary’ stages while ‘revolution’ entails radical change in three aspects of women’s choices and decision-making:

[ ... ] The first concerns ‘horizon’. That is, whether at the time of human capital investment a woman perceives that her lifetime labor force involvement will be long and continuous or intermittent and brief. The second concerns ‘identity’. That is, whether a woman finds individuality in her job, occupation, profession, or career. The third concerns ‘decision making’. Here the distinction is whether labor force decisions are made fully jointly, if a woman is married or in a long term relationship, or, on the other hand, whether the woman is a ‘secondary worker’ who optimizes her time allocation by taking her husband’s labor market decisions as given to her. (Goldin 2006, 1)

The stock-taking exercise in the previous sections left out ‘horizon’ and ‘identity’. For the sake of argument, however, let us assume that change therein was sufficiently radical in most European countries at least in terms of aspirations. Given that cultural models and aspirations spread quickly and often run ahead of structural transformations, this assumption may not be too far-fetched. Hence, the central question for evaluating women’s advances in Europe and the role European policies played could be recast as follows: are European women close to overcoming secondary earner status, and has European policy significantly contributed in this direction?

The evidence that we gathered is not reassuring: the total gap in earnings is around 40 % and more than half partnered women would qualify as secondary earners (including zero earners). Of course, both these figures may be lower among younger cohorts of women, especially well-educated ones. However, looking at averages across the entire population is partly justified by the fact that the young equal earners of today may become the secondary earners of tomorrow when family choices impose more constraints.

In EU policy circles, the secondary earners question is often framed in terms of tax-benefit policy, under the assumption that Europe’s primary mission is to make sure that the taxation system does not distort incentives in favour of not working for pay or choosing to work short hours. Taxation issues are relevant, but the evidence reviewed here suggests that reconciliation is no less important. What went wrong with reconciliation policy can be summarized in a few words, inadequate design, and a lack of balance among instruments. Let me articulate this claim by using the findings on the European reconciliation strategy that was discussed in the previous sections.

Leaves have sometimes, and sometimes have not, hindered employment for women already in the labour force. Partly because of wrong

design, however, they have definitely hindered rebalancing of women's and men's income roles within households. In theory, outsourcing care services can lessen the gender conflict over unpaid time and thus compensate for the adverse repercussions of leaves, at least to some degree. For this to happen, however, sufficient (affordable) facilities must be made available to families. Growth in the (subsidized) supply of formal childcare had indeed picked up before the recession and continued even during the first years of the recession. But austerity policy eventually compounded the effects of the crisis, contributing to stalling progress and even reverting the positive trend in some countries. Hence, part-time never really ceased being a major option for reconciliation. At policy level, the part-time leverage was de facto given primacy, with reliance on part-time work being moreover amplified by the recession. As a result, hours of work still substantially contribute to gender disparities in earnings.

The inference I would draw is that the EU reconciliation strategy has not maintained the 'right' balance among its tools. The crisis is partly to blame but it is not the only factor involved. That said, the importance of reconciliation policies should not be overemphasized. Within the EU, resistance to 'revolutionary' change in Europe also arises from a more idiosyncratic source of frailty, namely regional divides.

In Goldin's framework, advances in women's employment represent 'preconditions' rather than constituent elements of 'revolutionary change'. In Europe, however, employment preconditions for 'revolutionary' change may not have been fully met in several countries. Let us briefly recall developments. Despite not reaching the (over-optimistic) target of a 75 % employment rate, female employment has undeniably outperformed male employment in the past decades, both before and during the crisis. Hence catching up continues at EU level. However, divergences between leader and laggard countries have widened with the crisis, with the result that much of the female growth potential remains trapped in the latter.

To conclude, two questions appear to be holding back progress towards full integration of women in Europe; the regional question, and the secondary earner question. My understanding is that neither can effectively be dealt with by legal and judiciary tools alone. Both continue to be very important, but full economic integration of women into the European economy must ultimately be embedded in economic policy: not only well-designed reconciliation policy but also investment in care and social infrastructure, as well as fiscal and regional economic policy at large.

## NOTES

1. The Shriver Report (Morgan and Skelton 2014: v).
2. The respective age groups are 15–64 and 20–64 years of age.
3. GIPSI is a more charitable version of the damning PIIGS acronym that was used to identify the countries at closer risk of defaulting when the financial crisis peaked, namely Greece, Ireland, Portugal, Spain and Italy.
4. Online OECD, data base, downloaded March 4, 2016: <http://www.oecd.org/gender/data/genderwagegap.htm>
5. Note that actual discrimination may be lower if the average woman and the average man differ in some characteristics that cannot be measured but are valued in the market, for example, higher propensity to risk on the part of men.
6. Rastrigina and Verashchagina (2015: Table 3). The 65 % figure is a simple average for EU28 countries.
7. Based on Eurostat data for EU27 and the 15–64 age group (lfsi\_empl\_a series). The figures for the entire period (2000–2014) are as follows: total, net employment for women grew by 11.1 million, while part-time female employment increased by 7.2 million, that is nearly 65 %.
8. There is evidence, for example, that equal pay legislation contributed to raising female relative wages soon after it was implemented in the USA and the UK (Zabalza and Tzannatos 1985; Blau and Beller 1998).
9. This holds for services more than monetary benefits since the latter can also be used to partly compensate for own, informal care at home.
10. With specific regard to formal childcare services, a not uncommon finding in econometric studies is that the price matters less for employment outcomes in non-English-speaking European countries than it does in Canada, the USA or the UK (see, e.g. Gustaffson and Stafford 1992 for Sweden, Chiuri 1999 for Italy). One possible reason is that European childcare is often subsidized. According to Del Boca (2002), moreover, childcare costs significantly influence women's employment only in contexts where childcare is not severely rationed.
11. Suppose the market price for private childcare services is sufficiently high to ration out the lowest income households by making it cheaper for women in these households to give up employment and provide own, unpaid care. Because sex-typing of paid care work was and remains strong, more women willing to provide unpaid care means lower female employment in paid care. Conversely, when publicly subsidized supplies of childcare services make them universally affordable, this *tends* to free female supplies while also having a multiplier effect on the demand for female labour.
12. Further evidence is inconclusive in this respect. The largest fall in coverage since 2011 for *either* the youngest children or the preschoolers were



recorded by Croatia, France, Greece, Italy, Denmark, the Netherlands and UK, only some of which are clearly identifiable as countries where pressures for consolidation of budgets have been strong. Conversely, countries like Spain, Portugal or Ireland have not recorded higher than average losses in coverage since 2011 and have occasionally improved coverage.

13. Special caution is required in interpretation of available figures on the take-up rate of paternity across European countries. The source I have used (European Parliament 2015) warns, in particular, that types of information and year of reference may differ across countries.

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PART II

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# Gender Equality in the Economic Sphere

# Symbolic Policy Making for Gender Equality: Comparing the Use of Quotas for Civil Service and Corporate Boards in France and Germany

*Sophie Rouault*

## I INTRODUCTION

New pieces of legislation on gender quotas were introduced in France in 2011/12 and Germany in 2015. Women were to be better represented at the highest hierarchical levels in national civil services and on the corporate boards of listed companies. Decades of public policy making for gender equality in employment had shown some positive results but at a slow pace. International momentum for change was created by the European Commission, as it exerted pressure on European Union (EU) member states by threatening to impose a supranational (binding) regulation on gender quotas for corporate boards in case of national inaction. That aside, there was a quasi-simultaneous arousal of political and societal debate cutting across classical divides among political parties, and in two countries with quite heterogeneous policy traditions for gender equality in

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employment. We explore whether gender quotas represent a decisive turn in these national policy traditions or were only ‘business as usual’ in the guise of new political discourses, amounting to purely symbolic policy making?

To answer this question, we first analyse the legislative and administrative design of quota regulations introduced in the last 20 years in both countries and in two sectors (civil service and private companies), looking at the history and configuration of each national policy regime for gender equality in employment. A focus on the types of control and sanctions applied in case of non-compliance enables us to assess the technical plasticity of such a reputedly constraining instrument in its (legislative) design. Exploring the political arguments that were used to advocate the implementation of new gender quotas for corporate boards allows us then to assess the relative political plasticity of the instrument, supporting our hypothesis that this is a symbolic use of gender quotas in both national contexts.

Symbolic policy making is defined in the policy analysis literature as ‘policy statements without actual policy outputs’ (Elder and Cobb 1983, 22) or ‘policy statements with no teeth’ (Mazur 1995, 2), which, in contrast to ‘material policies’, involves ‘an intensive dissemination of symbols that have no tangible effect on resource allocation’ (Anderson 1990, 15; Edelman 1964, 26). Such ‘symbolic reforms provide many benefits to politicians who support them—in general public recognition, coalition-building capabilities, interest group support, [ ... ] but cost little in administrative resources and money’ (Mazur 1995, 2). Moreover, they fail in the long term ‘to generate an active network of state and societal actors interested in the success or failure of the policy’ (Skocpol 1988, 22). This comparative analysis of quota regulations in two countries and two implementation sectors enables us to extend this narrow, and rather negative, definition: symbolic policy (reforms) can indeed be without teeth (in regulatory terms) but can nevertheless provoke significant learning (in cognitive terms) by addressees and therefore have the potential to break entrenched cultural stereotypes—in this case about human resource (HR) management.

## 2 NOT SO SIMILAR NATIONAL REGIMES FOR EQUAL EMPLOYMENT

To place the new French and German gender quotas in their historical and institutional context first requires a brief explanation of the French and German ‘gender regimes’. From here, we can focus on the more limited

national regimes for equal employment, within which these quotas sit. We also trace back the political and institutional logic on which political and societal debates on gender quotas are based.

### 2.1 *Contradictory Gender Regimes in a State of Reconfiguration*

Both nation-states belong to the continental conservative corporatist type or Bismarckian type in classic welfare state typologies (Esping-Andersen 1990, 1999). In this type, most social insurance benefits are related to work status. Moreover, they share the feature of a quite contradictory gender regime in which equality of access to the labour market between partners in a couple (with children) is not supported across all policy sectors (Bothfeld 2008; Laufer 2003). Significant is, for example, the persistence in both countries of a gender- or family-splitting scheme in income taxation, which favours gender differentials (inside couples) in labour market participation, but also long-standing insufficiencies in childcare infrastructure, which hamper access to full-time work for mothers.

France has therefore been long classified as a ‘modified male breadwinner model’ (Reuter and Mazur 2003), where the historical accent put on formal or legal equality (as opposed to real or practical equality) has led to quite contradictory equality policies, evolving in the shadow of the pro-natalist imperative of its family policy. French policies for gender equality in employment have even been labelled as symbolic, characterised by ambitious legal norms and lofty political discourses but rather weak implementation and a notable absence of real sanction mechanisms for non-compliance. Regarding the balance between work and family, its policy-making style is rather authoritative (Laufer 2003), favouring the full-time employment of mothers by broadening progressively childcare infrastructure for children under three and providing free full-time pre-schools for all three-year-olds. While belonging historically to the traditional male breadwinner model, Germany has been engaged (since 1998) in a ‘hybridisation process’ of its gender regime (Lewis 1992; Walby 2007; Bothfeld 2008), which is therefore (still) full of contradictions. It supports women’s (return to) employment in some policy sectors (labour market policy, new divorce laws, new parental leave), while favouring traditional gender role models in other policy sectors (childcare allowance, childcare policy and income taxation).

Beyond the similarity of two conservative gender regimes still in transition towards the adult worker model, a closer look at the more limited ‘equal employment regime’ (Wahl 2005) of each country helps to more decisively differentiate their national profiles. The concept of ‘equal employment regime’ describes the policy-mix (of social, employment, anti-discrimination and reconciliation policies) elaborated over the years to achieve gender equality in employment, focusing on the dimension of equal access to the labour market, as enabling personal autonomy and economic independence (Wahl 2005, 70–71).

## 2.2 *French Versus German Equal Employment Regimes: The Fable of Hare and Tortoise*

The French equal employment regime has a usurped reputation as an international forerunner, but exhibits a strong symbolic component and serious implementation deficits. On the other hand, Germany may be considered a slow learner, but its equal employment regime shows incremental but real progress, notably in public service employment.

France’s record of policies for gender equality in employment seems to be a shining example in terms of individual rights, but this record results from a long process of ‘law piling’ or ‘legislative doggedness’ since the enacting of the ‘Roudy Law’ in 1983 (the first comprehensive piece of legislation on equal employment; see Junter 2004), in which each new piece of legislation promises more constraint on employers to compensate for the deficits of existing laws. This repeated promise to put employers under pressure has been described by analysts as hypocritical since implementation of legislative schemes is mostly left to autonomous social partners at the company level (Mazur 1995; Junter 2004). Very often, control and sanction mechanisms are created by the law, but remain un-implemented (Milewski 2011). Application decrees (which complete and detail the legislation) are not issued and the responsibility for controlling addressees’ compliance is either not ascribed or is ascribed to a body not able to carry out this task—the limited staffing power of the *Inspection du travail* (work inspection) has, for example, been long recognised. Monitoring structures to facilitate the implementation of legal standards are, moreover, largely absent. The authority for fighting against discrimination and for equality (HALDE) was created in 2004, but was disbanded in 2011, although it was unanimously praised for its record in counselling firms and public administrations and for arbitrating conflicts between employer and employees in regard to



gender discrimination.<sup>1</sup> The introduction of new quota regulations around 2010, somehow delayed by a barely fought amendment of the constitution, was presented by the conservative parliamentary majority as a necessary ‘electroshock’ after years of government inaction.

Germany, on the other hand, can be characterised by its historical refusal to legislate on employment equality, taking refuge behind the third article of its constitution that states there is equality in the rights of women and men (Berghahn 2011). Symptomatic of this ‘shuffling strategy’ is the incorporation of related European legislation and rulings in national law almost always under pressure and under litigation or threat of litigation by the European Court of Justice (ECJ) (Kodré and Müller 2003; MacRae 2006). This government inaction is reinforced by a corporatist tradition in which the right to free enterprise and free labour negotiation applies to gender equality in employment as well. Civil services, both at federal and local levels, partially escape the historical dynamics of purposeful state inaction. Confronted by the initiative of proactive regions and municipalities, the federal state attempts to behave in an exemplary way, claiming to be an inspiring role model for private employers (Bednarz-Braun 2000; Fuchs et al. 2015). After a resounding failure in 2001, Germany finally enacted, in 2006, its first all-encompassing law on employment equality (*Allgemeines Gleichbehandlungsgesetz*—AGG). This brought some order to legal obligations contracted at the European level but did not introduce any decisive new orientation, leaving private employers to self-regulate ‘under the shadow of the law’ (Bothfeld et al. 2010). The introduction in May 2015 of a binding gender quota for the supervisory boards of some listed companies was presented by the current ‘grand coalition’ (between Christian Democrats and Social Democrats) as the break-up in this dynamics of state benevolence.

In both national configurations, the recent introduction of gender quotas for corporate boards was presented by their initiators as a historical rupture—with government and employer inaction—in order to finally overcome persisting gender inequalities in employment. However, the civil services of both countries were already implementing gender quotas—since 1994 in the German federal administration and since 2001 in the national French administration. These favoured the recruitment of women, especially to higher posts (DGFAP 2003, 95; Schimeta 2012).

A thorough analysis of the legislative and administrative design of those old and new quota regulations enables us to assess the potential for constraint entailed in the regulations. Based mostly on primary sources (legislative procedure, minutes of parliamentary debates and official reports) but also

secondary literature (scientific and journalistic literature), the reach and the binding character of each quota regulation is measured, as a first step to assessing their respective potential for symbolic policy making. In the third part of this chapter, we analyse the design of gender quotas in the French and German civil services, where they were first implemented, before turning in the fourth section to the quotas designed more recently for the corporate boards of listed companies.

### 3 COMPARING OLD AND NEW QUOTA REGULATIONS IN CIVIL SERVICES

Despite the quite heterogeneous development of their national regimes for equal employment, both France and Germany arrived recently at a point where the slow and limited achievements of these policies became more visible and contested. Precarious and atypical employment was increasing and affecting predominantly women, while young women's qualifications outranked those of their male counterparts. In a policy context where gender equality policies had lost most of their political saliency compared to the more commonly viewed issues of work and family life balance (see Klenner 2007 for Germany) or of 'diversity management' (see Bereni 2009 for France), the 'old' issue of gender quotas was reactivated quite simultaneously in both countries. The German and French governments attempted to reactivate the issue of gender equality in employment and give it a higher political profile by intervening in the 'sacred of the sacred' area of male domination—the corporate boards of listed companies.

However, older gender quota regulations were already in place, notably in the field of public employment. Comparing the design of older and newer quota regulations highlights the malleability and the very variable constraining power of gender quotas. A symbolic policy design, contradicting political discourses presenting gender quotas as 'most threatening policy instruments', could explain the increasing political acceptability of gender quotas.

#### 3.1 *A Precedent: Gender Quotas for Recruitment Juries and Consultative Committees*

In both countries, the first gender quotas in (public) employment related to recruitment juries and consultative committees. In France, the Genisson law (2001) initially foresaw a principle of 'balanced representation' and its

application decree (2002) set a minimum proportion of one third to be reached for recruitment juries and consultative committees in the national civil service. This proportion had actually already been reached before the law was adopted. Women already made up 33.3 % of jury members in 2000 (Milewski 2011). Even if this proportion still increased rapidly over the years (42.4 % in 2004), the proportion of women becoming chairs remained lower than the target (20.8 % in 2000 and 24.4 % in 2004). The law was considered quite successful but also criticised for being ‘a narrow legal window’ which ‘tackles only indirectly the problem of the under-representation of women in the higher posts [of the civil service]’ (Direction générale de l’administration et de la fonction publique 2006: 27; for all statistics too). This law, then, can therefore be considered as a relatively symbolic use of gender quotas.

The introduction of quotas in the German federal administration occurred earlier through the 1994 *Bundesgremienbesetzungsgesetz* (BGremBG, a law concerning gender balance in federal committees). It set the (non-binding) objective of an equal participation of men and women in all federal committees, with the exception of elected bodies. This was to be reached through a procedure of double nomination (one male/one female candidate for each position). The results were more deceptive than in the French case—15 years after the law was issued, women made up only a quarter of members (Bundesministerium für Familien, Senioren, Frauen und Jugend 2010, 135). There was regular, if slow, progress until 2001, but a tendency to stagnation then developed. Evaluation showed that the procedure of double nomination was very rarely used and was quite unpopular. Experts inside the administration advised its abolition (Schimeta 2012). Nomination procedures in such committees were reputedly informal and opaque, taking place at the level of administrative units and far from the direct supervision of each ministerial department. They were even further away from any coordination at government level (Bundesministerium für Familien, Senioren, Frauen und Jugend 2010, 146–151). Amendment to the BGremBG (2015) finally abolished the double nomination procedure and introduced a deadline (2018) to reach gender parity in federal committees. At the same time, it introduced an ever-moveable range of exceptions for ‘politically sensible committees’, for which parity remains an indefinitely open-ended horizon (Rouault 2016). The Merkel government was harshly criticised by women organisations for what was seen as a completely symbolic political move.

### 3.2 *The Followers: Gender Quotas in Recruitment and Promotion Procedures*

Positive gender discrimination in the recruitment and promotion of civil servants is considered a far more contentious issue than for the setting of recruitment juries and consultative committees, since they have a direct effect on gender imbalance, particularly for higher offices.

Germany introduced several gender quota regulations for recruitment and promotion in the federal civil service in 2001, under its first red–green coalition (between ecologists and Social Democrats). The so-called *qualifikationsabhängige Entscheidungsquoten* (qualification-based quotas or performance-based quotas) were central to this. They allowed the preferential recruitment and promotion of women, but only on an individual basis and under specific conditions, settled under the pressure of ECJ rulings (notably in the famous Kalanke case). Three conditions had to be fulfilled before applying the quota regulation: an under-representation of one gender in the occupational sector, candidates competing for the post needed to have the same qualification level, and there was to be no unreasonable hardship for the candidate of the over-represented gender (the ‘hardship clause’/‘*Härteklausele*’). The ‘exceptions allowed by the law [were] more often called upon than the regular procedure itself’, reported experts (Schimeta 2012, 48–53). The main issue lay in the evaluation of the ‘sameness’ of the qualifications put forward by the candidates. If this could be easily assessed in the case of first nominations (difference in the quality of degrees), it became as rare as hen’s teeth in case of promotions. The evaluation of aptitude, capability and technical achievement can always differ from individual to individual, especially when such an evaluation is refined to the extent of making any ‘sameness’ impossible. This quota avoidance strategy seemed to be the common practice (Bundesministerium für Familien, Senioren, Frauen und Jugend 2006, 34; Bednarz-Braun 2000, 139–142; Papier and Heidebach 2014). The amendment of the Equality Law for the federal administration in 2015 left this unsatisfactory situation unchanged. It nevertheless added the obligation for each administrative unit to set itself targets for the proportion of women at each management level—since this obligation was applied to listed and co-managed companies in the same piece of legislation.

The introduction of gender quotas for recruitment and promotion of civil servants occurred in France later. The initiative was taken by the conservative majority in parliament—and not, as normally happens, by the government. The law was adopted in 2012 in an accelerated process that

took just three months, in the direct aftermath of a quota regulation for the corporate boards of private (and public) companies issued in 2011 (see below). The state as employer had to make an effort to somehow align itself with the constraints it applied to other employers. A minimum proportion of 40 % of men and women was to be reached by 2018 for prime nominations for higher management positions (*encadrement dirigeant et supérieur*) in the central civil service. This also included key political positions at the discretion of the government. Intermediary objectives of 20 % for 2013 and 30 % for 2015 were issued—measured for a year’s time in a ministerial department. This move was immediately criticised by gender experts for dealing with nominations to new positions only, while the quota applied to the corporate boards of listed companies was for existing boards (Milewski 2011). Very optimistically, this quota regulation was expected to lead to 33 % of leading positions in the central civil service being held by women by 2018 (Milewski 2011). In 2015, the next (socialist) government brought forward the legal deadline for the 40 % quota to 2017.

### 3.3 *Should the State as Employer Be Able to Sanction Itself?*

Both waves of regulation (quotas for recruitment juries and consultative committees and quotas for recruitment and promotion procedures) can be further assessed in relation to the type of control and sanction in cases of non-compliance. By analysing this aspect, we can more accurately uncover the symbolic nature of these diverse gender quotas.

All German governments justified the absence of any formal sanction in case of non-compliance by the federal administration using a very general argument: the German legal framework forbids any monetary fine or other administrative sanctions against the public administration since public authorities are bound to respect the law. Moreover, all regulations (until 2015) contained no time frame for implementation, thus offering administration an open-ended horizon for achieving more gender equality. The French (conservative) government decided to apply substantive monetary sanctions to its own administration for the first time in 2012: a financial contribution in case of irregular nominations, which was settled by decree at €90,000 for each missing unit from 2018 onwards (€30,000 in 2013–2014 and €60,000 in 2015–2017—the penalty strangely extinguishing after the implementation deadline). However, many exceptions to the new quota legislation were introduced (military and magistracy and parliamentary civil servants) or maintained (academic research) by the

new socialist government. It is unclear whether the sanctions were ever imposed. No information about the application of such fines to ministerial departments was published, although the number of sanctions against private employers was made public from 2012 onwards.

The use of moral sanctions—making progress in implementing quota regulations in the federal or national civil service visible to the general public—was nevertheless sharpened in both countries. From 1994, the German government regularly published two official gender equality reports about its achievements within federal committees and in the federal service more generally (*Bundesgremienbericht* and *Erfahrungsbericht*). While these reports include an ever-more detailed statistical follow-up for each ministerial department and each management level, the abundance of data was not accompanied by any policy recommendations. The French state reporting practices on this issue were less regular—accessible reports were interrupted for a decade, confirming symbolic equal employment policy making. The first dedicated and fully accessible report was handed in 2014 by the government to the *Conseil supérieur de l'égalité professionnelle* (high council for employment equality, created in 1983).

Gender quota regulations implemented in the national or federal civil services under scrutiny here appear to be of a relatively strong symbolic nature. While some have limited effects because they act only indirectly to increase the under-represented sex in higher offices (juries and consultative committees), others are developing slow, but incremental, effects (German quotas for preferential recruitment). Some quota regulations have almost no effect, because of unfeasible procedures and/or in the absence of adequate control and sanction mechanisms (German performance-based quotas and the principle of double nomination for German committees). Transparency about the state's achievements regarding gender is relatively high in the German case while very sporadic in the French case. After analysing the design and implementation of gender quotas in national civil services, recurring discourses about the state's role as an 'exemplary employer' appear quite deceiving.

#### 4 GENDER QUOTAS FOR CORPORATE BOARDS: NEW QUOTAS OR NEW DISCOURSES?

Despite the introduction of gender quotas in the male bastions of the corporate boards provoking heated debates in the societal and political arenas, these regulations were adopted by a conservative government (in the French case) and by a government coalition led by a conserva-

tive leader—Chancellor Angela Merkel (in the German case). This cuts across traditional party divides about state intervention in economic life and contradicts a central assumption of current quota literature (Terjesen et al. 2014), which states an affinity between left-wing parties and quota regulations for corporate boards.

In France, the quota law was issued in 2011 under the presidency of Nicolas Sarkozy but at the initiative of his majority in parliament, under the leadership of Marie-Jo Zimmermann, the chair of the parliamentary committee for women rights, and one of the most active advocates for gender equality in parliament. Facing a block by its liberal coalition partner and the frontal opposition of employers' organisations, the first governing coalition of Chancellor Angela Merkel failed to introduce any proposal of its own but saw no less than six legislative proposals from the parliamentary opposition discussed within two years (2011–2012). Some of these were supported by (female) MEPs from Merkel's own political ranks (CDU), thus endangering party discipline. The coming into power of a new grand coalition between Christian Democrats and Social Democrats in September 2014 finally opened the way to a new governmental proposal, which was finally adopted in parliament in March 2015. In both national contexts, governing conservative parties and their most conservative members were overruled by their own (younger and female) MEPs, who forged cross-party alliances to get the new quota regulations through.

The most heated pleas for the fundamental right of company owners and shareholders to self-organisation (and against these new quotas) divided only the conservative MEPs. The most widely discussed technical issues (between majority and opposition) revolved around the reach of the quota regulations and the sanctions in case of non-compliance. This quite unusual partisan configuration ended in quotas with a limited reach and extremely mild sanctions. Supplementing this analysis of the design of the quota instrument with an analysis of the debate among the (new) proponents of gender quotas for corporate boards enables us to further uncover the political malleability of this instrument—confirming the potential for symbolic policy making.

#### 4.1 *Gender Quotas with Limited Reach and Weak Sanctions*

Germany and France share the common feature of a two-tier system of corporate boards—an executive directors' board (*conseil d'administration/Vorstand*) in charge of management operates under the scrutiny of a (non-executive) supervisory board (*conseil de surveillance/Aufsichtsrat*), which

is in charge of the governance of the company.<sup>2</sup> In technical debates among MEPs and with business experts (lawyers and employers' associations), the application range of gender quotas was one of the most controversial issues.<sup>3</sup> Employers in both countries showed a lower resistance to quotas that were limited to non-executive committees of corporate boards. While the 2015 German legislation adopted this compromise and issued a gender quota of 30 % for supervisory boards, to be reached in 2018, the French 2011 legislation set a quota of 40 % for both sexes to be reached in 2017 for both directors' and supervisory boards.

A second controversial issue related to the reach of the quota regulation, that is to the type (and therefore number) of companies concerned. Limiting this reach to listed companies represented in both countries a further consensual basis for parliamentary debate. If this reach was extended in the French case to 'big' firms with more than 500 employees and more than a €50 million turnover,<sup>4</sup> it was limited in the German case to companies that were not only listed but also co-managed (through the participation of employees' representatives in corporate boards). About 690 companies were covered by the regulation in the first case, against only around 100 in the second. To compensate for this very limited reach, the German legislator introduced an obligation for other listed or co-managed companies to set targets for women's participation in the director's board and at the highest management positions—a kind of voluntary, binding but self-calibrated quotas. No departing or minimum percentage was set by the legislator, although any retrograde move in proportion was forbidden.

The type of sanction planned for 'irregular' nominations was decisive in the design of gender quotas for corporate boards. The debate revolved around quashing irregular nominations, quashing the deliberations of such irregular boards and possible fines for each irregular nomination. The French legislation was criticised for being a paper tiger in sanctioning irregular nominations but only during the transition phase (until 2017)—the sanction strangely disappearing after the implementation deadline. Moreover, these sanctions were quite moderate: only the irregular nominations of members of the over-represented sex were quashed and attendance fees of all board members were temporarily suspended, while the board remained fully operational. In the German case, the only sanction considered by the government was the so-called empty chair policy: in case of irregular nominations, the concerned positions remained unoccupied until a woman was found, but the board also remained operational—a completely painless sanction.



Publicity of the progress achieved in implementing this new quota regulation is of interest for measuring the type of moral sanction—blaming and shaming through publicity. In both cases, this publicity was quite limited. The French ministry for women’s rights published in 2012 the first annual ranking of the most prominent listed companies (CAC40), calculating the gender equality achievement of those firms, taking into account how well these firm had fulfilled the quota but also the proportion of women in the top echelons. But this ranking includes only a small proportion of the addressees of the quota regulation—namely the 40 most prominent. The German government praised itself for a transparent implementation of the quota, arguing that the gender data included in the *Lagebericht* (annual report of the directors’ board) was freely accessible to any interested citizen, but not adding any publicity obligation to already existing data.

Taking all these factors regarding the design of new gender quotas for corporate boards into account, we can see the stronger character of the French regulation (reach/sanction/publicity), compared to its German counterpart. Nevertheless, the very weak sanctions applied to non-compliant companies in both cases underlines the symbolic nature of this last generation of quota regulations. This is especially clear when compared, for instance, to the sanctions applied in Norway (often seen as an exemplary forerunner), where contravening companies can even be dissolved in the last instance (Bothfeld and Rouault 2015).

#### 4.2 *Debating Gender Quotas: New Discourses or New Strategies for Gender Equality?*

After measuring the relatively strong potential for symbolic policy making ingrained in the design of these new quotas for corporate boards, analysing the arguments advanced by the proponents of these regulations—especially the newly won proponents in the conservative ranks of parliament—enables us to identify changing dynamics in the framing of national equal employment policies and regimes. This debate analysis relies both on the minutes of parliamentary debates and on a representative sample of press articles.<sup>5</sup>

Two main arguments are offered by the proponents of gender quotas for corporate boards—a policy argument around the relative inefficiency of the older instruments of gender equality policies on firms’ human resource management, on the one hand, and an economic argument (the so-called business case for quotas), on the other, according to which more women on boards equates to more and better economic growth, both at

the micro- and macro-economic levels. Both lines of argument explain the broader acceptance of this new wave of gender quotas.

#### 4.2.1 *A Policy Rationale: The Inefficiency of Older Policy Instruments to Reform HR Practices*

The parliamentary debates on the introduction of gender quotas for corporate boards refer in both countries to the failure of older policy instruments aimed at addressing gender inequalities inside the firm (and in the overall economy) in terms of occupational segregation or pay differences. In both national contexts, these ‘failed’ instruments imply a decentralised and partially autonomous implementation at branch or firm level (a bottom-up approach), letting companies act autonomously ‘under the shadow of the law’. The instruments referred to are, for instance, legal obligations or self-commitment (through corporate governance codes) to report on practices towards more gender equality or to negotiate with employees’ representatives on gender equality or more specifically on gender pay gaps. These were not implemented by a majority of the companies concerned (see, for instance, in the French case: CESR 2012, 23–30; in the German case: Jüngling and Ratstetter 2011). This delegation of responsibility having remained ineffective or having too slow an effect, the legislator would come back with quota regulations to an authoritative top-down approach and focus on the strategic core and the male bastion in the biggest firms—the corporate boards, so as to shake and change corporate practices and cultures.

#### 4.2.2 *The Business Case: Stopping the Waste of Female Talent*

The second main line of argument in favour of gender quotas for corporate boards was the business case, and there is a great deal of academic research on the topic (compare literature reviews by Terjesen et al. 2009). More women in board meetings would not only improve a company’s economic results, it would also improve its ‘collective intelligence’ and nurture a new management culture infused with typically ‘feminine’ values (such as intuition, independence, cooperation, social and ethical commitment). This in turn would give complying firms a more attractive profile as potential employers and a better profile in terms of risk and accounting control. Introducing gender quotas and forcing the entrance of women into corporate boards would avoid a waste of talent and nurture economic growth. The business case provides an acceptable basis for gender quotas, cutting across the traditional party divides, since it equates

the increased participation of women on boards and top management to better economic results for virtuous employers.

#### 4.2.3 *Elitist Policy Making or a Necessary First Step Towards More Gender Justice?*

Some gender analysts warned about the political dangers of such a mutually accepted discourse on quotas (Amintas and Junter 2009; Berghahn 2012). Its economic rationale would threaten to hide from sight the original rationale of social justice; its elitist and individualised approach (the focus on women in top positions treated as individual cases) would overshadow mass gender inequalities in the labour markets (precarious employment, underemployment of women, etc.). Moreover, the accent put on typically ‘feminine’ qualities reintroduces a naturalisation of gender issues considered as archaic. In short, this focus for gender equality debates on quotas would entail a potential policy backlash. But this limited, individualistic and somehow traditionalist approach to gender equality nurtures the pro-quota argument of conservative parties, helping to forge broader support for those regulations in both national parliaments and explaining their adoption by conservative governments, thanks to unusual cross-party alliances.

But the initiators of these new quota regulations also resorted to several metaphors—an ‘electric shock’ and a ‘door opener’ to ‘spark off a learning process’—which underline the potential cascading effects of this instrument, reintroducing indirectly the idea of social justice. Imposing a gender quota on boards of listed companies entails, according to those metaphors, an explicit gamble on a double cascade effect—women at the top should favour the arrival of women at intermediate levels of the hierarchy, helping to fill the so-called talent pool of potential women board candidates and diffusing downwards a culture of gender equality. Moreover, the example of virtuous companies would rub off on non-listed and smaller firms.

This multiplicity of discourses in favour of gender quota regulations for corporate boards underlines the polysemy acquired by this policy instrument—in comparison with older regulations in civil services or earlier attempts to propose quota regulations for corporate boards (see Pfarr 1988 for the German case), which revolved exclusively around the social justice rationale. This new polysemy nurtures in turn the broader political and societal acceptability of gender quotas in employment and their diffusion—as Berrey showed it in the case of diversity policies (Berrey 2015). This argumentation mix between policy and economic rationales

gambles on an organisational learning effect through individual career management, but also retains indirectly some elements of the original rationale for social justice in its cascading effects.

## 5 CONCLUSION

Analysing the design of several generations of gender quotas in two national contexts and relating to two types of organisation enables us to identify a relatively constant form of symbolic policy making—mostly through the absence of controls and sanctions and despite the binding nature of existing quota regulations. The federal or central state, which implemented the first generations of gender quotas for its civil services and which has been proclaiming its status as exemplary employer, is shown to be less than true to its avowed intentions. The recent introduction of gender quotas for corporate boards gives this symbolic policy making a new dimension. If the design of these new quotas confirms their traditional symbolic nature (very weak sanctions and limited transparency around achievements), a debate analysis shows that the new proponents of gender quotas (mostly in the conservative ranks of parliament) developed a variety of arguments that increased their acceptability. They played on both a policy rationale (against older instruments delegated to employers) and an economic rationale (the pro-quota business case), contradicting to a certain degree the older (progressive) rationale for social justice.

Symbolic policy making, therefore, equates in this case with a new polysemy that enables cross-party alliances and explains the re-emergence of this top-down instrument for gender equality. Approaching institutional change in terms of ‘set patterns of discourses and ideational logics or frames that structure political action within the state’ (Schmidt 2008), discursive institutionalism enables us to affirm that the last generation of gender quotas nevertheless stands for a genuine institutional change in the field of gender equality policies. As evidenced in the case of family and reconciliation policies (Wahl 2011; Fleckenstein 2011; Wiliarty 2013), gender policy making has become a transformative factor for conservative parties and governments. Gender policies themselves were in turn transformed by conservative parties and more especially by their (female) parliamentary representatives,<sup>6</sup> acquiring a somehow weaker social justice profile but strengthening the acceptance of its policy instruments in new political arenas and their diffusion in new social sectors.

## NOTES

1. The HALDE was then replaced by a *Défenseur des droits* (Defender of Rights), who benefited from the start from far lower financial and personnel resources.
2. The board of directors comprises the chief executive officer (CEO), other executive members of the organisation's senior management team and externally appointed non-executive members. France offers a choice between one- and two-tier systems—in the first case, one differentiates between executive and non-executive committees/positions.
3. For practical reasons, recurring arguments and metaphors about gender quotas, such as transcribed in parliamentary debate or quoted in press articles, are here marked but not referenced, since they are to be found in almost any press article and any parliamentary session on the issue.
4. A new law on gender equality (*Loi sur l'égalité réelle*) issued in 2015 enlarged the quota regulation to non-listed companies with more than 500 employees and to companies with more than 250 employees and a €50 million annual turnover.
5. Debates from both the lower chamber (Assemblée nationale/Bundestag) and the higher chamber (Sénat/Bundesrat) of the two parliaments were analysed. Furthermore, official guidance on the draft laws from specialised parliamentary committees and official governmental press releases on the law were examined from the announcement of the draft law to its adoption (in the German case going back to several draft laws submitted by the opposition). Concerning the daily press, we selected in each country and for the same period of time a progressive daily newspaper (*Süddeutsche Zeitung/Libération*), a conservative newspaper (*Frankfurter Allgemeine Zeitung/Le Figaro*) and a financial newspaper (*Handelsblatt/Les Échos*).
6. And not so much anymore by femocrats inside the state as it was the case in the past decades (see, for example, Stetson-McBride and Mazur 1995).

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# Overcoming the Gender Pay Gap: Equal Pay Policies Implementation in France and the United Kingdom

*Cécile Guillaume*

## 1 INTRODUCTION

Driven by policy making at the European level (Jacquot 2014), statutory intervention for equal pay has grown significantly over the last 40 years both in France and the UK. National legislation has developed as well as other forms of regulations, such as collective bargaining and wage-setting institutions (O'Reilly et al. 2015). The gender pay gap has reduced in both countries but the goal posts for achieving equal pay for women keep moving (Rubery and Grimshaw 2015). In France, at 14.7 %, the gender pay gap stands below the EU average of 16.2 % (Organisation for Economic Co-operation and Development 2012). In the UK,<sup>1</sup> the gender pay gap for all employees fell between 1997 and 2010 from 27.5 % to 18 %. It is now at 19.1 %. In both countries, large disparities remain between sectors (public/private) and educational groups as well as major inequalities between full-time and part-time employees. The persistence

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of gender inequalities calls for a closer examination of the mechanisms and processes by which France and the UK have incorporated EU policy in their national institutional contexts. Whereas previous comparative research have focused on the conditions of equality policy formulation and success (Mazur 2003), the impact of bargaining content and structures on gender equality outcomes (Milner and Gregory 2014) and the utilization of equal pay legislation (Kilpatrick 1997), this chapter looks into the varied national law-centred experiences, and more specifically the complicated relationship between litigation and bargaining strategies to achieve equal pay (Deakin et al. 2015; Guillaume 2015a).

France and the UK followed two different institutional paths for equal pay legislation implementation but, in both cases, the influence of EU legislation and its interpretation by the European Court of Justice has been considerable (Dickens 2007). Whereas France has repeatedly relied on state intervention, the UK has resorted to administrative enforcement through the Equal Opportunity Commission created in 1975 and individual complaints of rights violation to the Employment Tribunals. Some studies highlight the particular importance of supportive legislation to advance the equality agenda (Milner and Gregory 2014). Other scholars argue that increasingly complicated legislative structures and norms have not ensured direct compliance in the workplace (Dickens 2012). In the UK, increased individual rights have been criticized for being tentative in ambition and complex in application (Dickens and Hall 2006; Colling 2006; Pollert 2007) while failing to address the systemic nature of gender inequalities. In France, the accumulation of equality laws has been appraised as series of “symbolic reforms” (Mazur 2004) with very few results (Laufer 2003).

In both cases, the use of law has interfered with collective bargaining in complicated ways. In France, collective bargaining on equality has been portrayed as an “empty shell”, merely echoing the content of legislation (Laufer and Silvera 2006; Rabier 2008; Milner and Gregory 2014). In the UK, studies advocate an enhanced role for collective regulation (Colling and Dickens 1989; Cockburn 1995; Dickens 2000, 2007) but equality bargaining remains difficult,<sup>2</sup> especially on equal pay issues. In 2012, only 3 % of workplaces reported taking action to combat discrimination through pay reviews. In the public sector and in large private companies, equality audits and equal opportunity policies have developed but very few organizations have introduced measures to address pay inequalities. In this context, other research argue that growing equal pay litigation fills a space

left by the decline of industrial bargaining and acts as substitute (Renton 2012), while re-empowering disadvantaged women (Beirne and Wilson 2016). Mass litigation has revealed that the “underevaluation of women’s work”, which results in the fact that women are paid less for the same level of efficiency within the same job and are employed in jobs or occupations that are themselves undervalued, is an ongoing process, shaped by the actions of employers, governments and trade unions (Grimshaw and Rubery 2007). In the UK, like in many countries, trade unions have been under scrutiny because of their uneven history in relation to equal pay (Acker 1989; Hart 2002; Guillaume 2013) and their uncomfortable relationship with the law (Conley 2014). Most studies have criticized the collusion of unions with management to minimize the effects of the equal pay legislation in the existing grading and pay systems.

However, the remarkably high level of equal pay litigation in the UK (Kilpatrick 1997; Fuchs 2013) demonstrates emerging relationship between the system of collective bargaining and the litigation process depicted as complements (Deakin et al. 2015) and the ability of the courts to adjust the law to reflect new problems as they come before them. Apart from the tangible gains for many low-paid women who were compensated for their past discrimination, we argue that the ambivalent and rather constrained choice of British trade unions to rely on litigation has resulted in an unequalled understanding of the concepts of equal value and indirect discrimination, and the development of comprehensive methods of job evaluation. The massive process of litigation led by trade unionists and “no win no fee” lawyers has permitted to revisit implicit representations of the value of women’s work (Guillaume 2015b) and to challenge traditional unions’ views on collective bargaining. In a context where the prospect of negotiation as a main driver to achieve equal pay is questioned by the decentralization and narrowing of collective bargaining coverage (Milner and Gregory 2014; Peruzzi 2015) and the impact of austerity policies (Oliver et al. 2014), litigation strategies can lead to efficient “recombinant legal strategies” to enforce employment rights at the workplace level (Colling 2012). Recent research on union discrimination (Guillaume et al. 2016) has shown that mobilizing the law can generate strong organizational responses to law (Barnes and Burke 2012) by means of collective bargaining or equal opportunity policies. We will discuss the merits of litigation strategies by comparing the two legal routes France and the UK have chosen to enforce equal pay legislation and their outcomes.

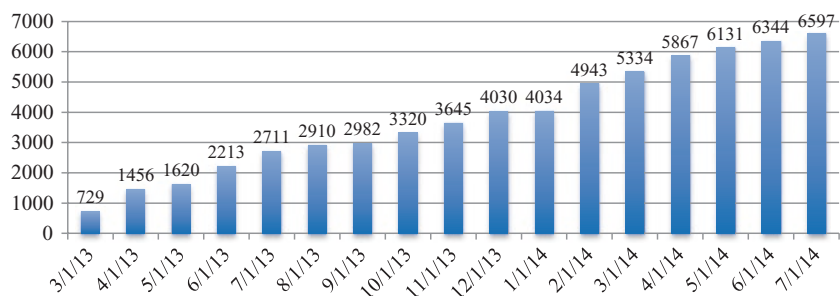
## 2 FRANCE: COLLECTIVE BARGAINING IN THE “SHADOW OF THE LAW”

France has heavily relied on legislation to advance equal pay, both under left-wing and right-wing governments. The principle by which law guarantees women the same rights as men was enshrined in the preamble to the 1946 French Constitution. Lower pay rates for women were also abolished in 1946 but the principle of equal pay for equal work or equal value was only established in 1972 through the article L.140-2 of the Labour code. Despite potential penal sanctions on employers found to be in breach with the law and legal remedies for individuals to enforce their rights, these legal provisions had very few effects on pay inequalities mainly because of the absence of pay information mechanisms and of criteria to guide equal value procedures. National legislation further improved thanks to the transposition of EU directives (1975 *Equal Pay* and 1976 *Equal Treatment Directive*) and the recommendations on Positive Actions (84/635/EGEC). In 1983, the *Roudy* Law on employment equality set up new obligations for companies with more than 50 employees to provide gendered information on pay and promotion to trade unions in order to strengthen collective bargaining on equality. Positive actions such as negotiated equality plans to correct gender inequalities were envisaged and could be financially aided by the state. However, research has shown that very few agreements were negotiated (Jobert 1993). First, the idea of positive action conflicted with the French “universal” legal definition of equality (Lanquetin 2004). Second, trade unions had difficulties estimating pay inequalities in gender-segregated workplaces. Third, enforcement bodies such as the Superior Council of Occupational Equality (CSEP) possessed no legal power and labour inspectorates were not trained or aware of gender inequalities. Apart from the new requirement made to branch-level agreements to comply with the principle of equal pay, trade unions did not feel compelled to take part in the interpretation and implementation of the law. Fighting against job losses and casualization in feminized sectors was prioritized over the renegotiation of job classification systems that perpetuated the under-evaluation of women’s work (Jobert 1993).

In 2001, another piece of legislation, the *Génisson* Law, was passed in order to strengthen the role of collective bargaining both at the workplace and sector levels. Gender equality became a compulsory topic of negotiation and was to be “mainstreamed” into other negotiations on pay, training and job classification. In 2006, a study stated that less than 33 % of

companies had initiated negotiation on equality (Silvera and Laufer 2006), mainly large ones. Equal pay was probably the most difficult topic of negotiation with very little information available, no consideration of career differentials and no attempt to challenge job evaluation criteria. To encourage collective bargaining, a further law in 2006 set the objective of removing gender pay gaps by December 2010. By 2008, reports<sup>3</sup> showed that equality bargaining developed, more specifically on equal pay, with 19 sector-level agreements (only one in 2006) and 1235 company-level agreements (1160 in 2007). However, most of these agreements only settled for the principle of equal pay for equal work. Equal value remained off the radar of collective bargaining. Another law on pensions effective from January 2012 introduced a financial penalty of up to the total wage bill for companies with more than 50 employees that failed to negotiate an equality plan. Collective bargaining seems to have become the standard (partly coercive) form of compliance with discrimination and equality legislations. The new “umbrella” equality law passed in 2014 reiterated the requirement for companies to produce equality action plans or agreements if they wanted to avoid financial penalties and be able to bid for public services procurement contracts. By July 2014, more than 1000 formal notices were issued and 33 companies were penalized. Enforceable sanctions obviously contributed to increase the volume of agreements and generated an awareness-raising effect (Milner and Gregory 2014) with more than 6500 agreements or action plans signed in July 2014 (see Fig. 4.1).

However, these results need to be qualified depending on companies’ size; 75.4 % of companies with more than 1000 employees are covered



**Fig. 4.1** Number of equality agreements or action plans since January 2013

Source: Conseil Supérieur de l'égalité professionnelle, report n°2014-02, 2014

by a collective agreement and/or action plan. This rate goes down to 63.5 % for companies with 300 up to 1000 employees and only 29.5 % for those with less than 300 employees (and more than 50). In terms of content, most of these agreements or action plans only reassert the main principles of the law with very few explicit quantitative targets or monitoring indicators. Very few offer detailed analysis of the gender gap situation and grasp the importance of career differentials in the formation of pay inequalities. Job evaluation bias and the processes underlying the under-evaluation of women's work are rarely addressed. Moreover, whereas the anti-discrimination law enacted in 2001 introduced the notion of indirect discrimination in French law, trade unions (and employers) have not considered its significance for their bargaining practices. Research has shown that employers may be willing to comply with equality legislation and produce the necessary information to advance gender equality, but are very cautious when the concept of direct or indirect discrimination is mobilized by trade unionists (Cousin 2007). Equality continues to be seen as a secondary issue (Milner and Gregory 2014) and many trade unionists do not possess the necessary statistical expertise to deal with it. Occasionally, negotiated collective pay compensation measures for women have generated dissent amongst union members and employees (Cristofalo 2014).

More importantly, French trade unionists are not comfortable with the legal concepts of equal value and indirect discrimination. This lack of legal understanding can be explained by the under-utilization of litigation by trade unions to achieve equal pay (Kilpatrick 1997; Fuchs 2013). Only 12 equal value cases have been identified by previous research (Silvera 2014) and very few equal pay claims are supported by trade unions. Interestingly, discrimination law has resulted in a more litigious approach by trade unions when seeking redress for union victimization (Guillaume et al. 2016). By contrast, equal pay litigation remains very low, even if it is now developing on the back of union discrimination case law. One explanation for this low level of litigation can be found in the late existence of an agency exclusively devoted to equality and with sufficient resources and legal powers (Kilpatrick 1997). The French enforcement body, *Défenseur des droits*, created in 2011 after the restructuring of the former equality agency, *Haute Autorité de lutte contre les discriminations*, has a large mandate for the promotion of citizens and children's rights, anti-discrimination law and ethical matters, a characteristic that is not attuned with the use of litigation (Alter and Vargas 2000). Another reason points to the weak influence of feminist advocates within trade unions (Guillaume and Pochic 2012) and

the preference for gender mainstreaming approaches promoted by EU policies and the European Trade Union Confederation (ETUC). A third explanation lies in the resistances of the judiciary to integrate Community law principles into French law (Lanquetin 2004). Compared to the UK (and the USA), the lack of an abundant case law that has helped in testing the concepts of indirect discrimination and equal value has been detrimental to the understanding of job segregation and gendered stereotypes in the making of pay inequalities (Mercat 2010). However, in 2010, a working group mainly composed by academic experts was established by the *Défenseur des droits* to develop an equal value guide (Silvera 2014). A new national agreement to improve the quality of working life and equality was also signed in 2013 with the intention to set up another working group made up of trade unionists and employers' representatives to develop a method to test gendered bias in job evaluation exercises.

### 3 UK: A TWO-PRONGED APPROACH TO ENFORCEMENT

In the UK, equal pay legislation took a very different path, relying on two main routes: administrative enforcement through the Equal Opportunity Commission created in 1975,<sup>4</sup> which has investigative powers and the ability to issue enforceable non-discrimination notices, and individual complaints of rights violation to the tri-partite Employment Tribunals. Compared to France very few pieces of legislation were passed. The first Equal Pay Act was introduced in 1970, following a memorable strike led by female workers at the Ford factory in Dagenham in 1968. The 187 sewing machinists went on strike to get a re-grading of their jobs, which had been under-evaluated as a new wage structure was being introduced in 1967. The women got a pay rise and a promise from Barbara Castle, the Secretary of State for Employment and Productivity, that she would soon introduce equal pay legislation. There were other reasons why national legislation was introduced, including the risk of stricter legislation being imposed by the European Community, which the UK was about to join. The legislation adopted in 1970 gave employers five years to correct the most blatant direct forms of discrimination. Following the enforcement of the Equal Pay Act in December 1975, numerous claims were lodged by low-paid women. However, early studies of the use of the equal pay legislation highlight the unsympathetic attitude of judges and trade unionists towards complainants. They often had only a vague understanding of the law and gave incorrect advice (Leonard 1987) or tried to dissuade

claimants from proceeding to the tribunal hearing and pressed them to accept poor offers from employers (Gregory 1982). Between 1975 and 1982, the number of claims dropped sharply from 1800 in 1976 to 39 in 1982, notably because employers abolished the separate male and female pay scales. In doing so, they reinforced the gendered job segregation and maintained separate collective bargaining for different occupational groups to avoid possible pay comparisons, which made the use of the law more difficult, as the Equal Pay Act stipulates equal pay only for “like work” or “jobs rated as equivalent”.

Beginning in the early 1980s, the Equal Opportunities Commission, which considered the Equal Pay Act to be too limited in its scope, adopted a litigation strategy that sought to take advantage of European legislation in order to counter the narrow rulings from the Employment Appeal Tribunal (Alter and Vargas 2000) and work for the introduction of an “equal value” amendment in 1984. Although it was not described as feminist in the early years of its existence (Gregory 1987), the EOC used its independence and narrow mandate to develop strategic litigation, picking up the first 60 claims for equal value. This strategy helped to build a strong body of case law and gradually attracted the support of the judiciary (Alter and Vargas 2000). The number of claims began to rise again (380 in 1986, 570 in 1987, 1000 in 1988).<sup>5</sup> These single cases were very often supported by male trade unionists and feminist women union officials being able to identify inequalities in pay and practices and to take action to change them (Guillaume 2013, 2015b; Pochic 2014). However, in drafting the equal value regulations, the government introduced a “material factor defence” that allowed the employers to argue that even if jobs are of equal value, there is another explanation for the differences in pay other than the difference in sex. The extensive range of factors accepted by tribunals as legitimate defences for pay inequalities, such as training and experience, responsibility and job demands, skill shortage as well as separate collective bargaining structures, has been fought intensely by claimants in courts using European law (Gregory 1996), but has also resulted in repeated appeal strategies and long-lasting legal procedures.

In the private sector, feminized unions used the threat of legal action to force employers to introduce integrated job evaluation systems, which were believed to be free of sex discrimination (Arthurs 1992) and which did indeed lead to many low-qualified female workers being upgraded (for example, clerical staff in the banking industry). Likewise, in the public sector, the major unions pushed employers (and the government) to



undertake a wide pay and grading review for manual workers in local government in 1988 (Dickens et al. 1988), which was seen as a way to avoid further litigation but which left open the possibility of litigation for non-manual workers and marked the onset of huge multiple claims in the public sector. By the mid-1990s, the discriminatory nature of this review that maintained “productivity” bonuses for men (refuse collectors, gardeners) had become very apparent. Following the settlement of the speech therapists’ case in 1993,<sup>6</sup> where the ECJ suggested that separate collective bargaining arrangements could not be used as an argument against an equal pay claim, the Conservative government decided to launch negotiations on harmonizing the conditions of former administrative, professional, technical and clerical (APTC) staff and manual workers in local government (*Single Status* agreement). In addition, a new job evaluation scheme was developed to address grading and equal pay issues.

However, contrary to the 2004 *Agenda for Change* agreement negotiated in the National Health Service, the government did not allocate special funding for local authorities to implement *Single Status*, placing a huge financial burden on them and possibly threatening jobs. By 2007, many councils had not implemented it, which left the door opened for litigation. In 2003, two legal decisions helped in boosting collective litigation led by “no win no fee” lawyers: first, the removal of a provision in Equal Pay Act 1970 limiting compensation for breach to two years back pay; and second, the extension in some cases of the six month period after the end of employment,<sup>7</sup> during which a claim must be brought.<sup>8</sup> Whereas, like in France, class action is not permitted in British employment law, the strategy of grouping claims refers to situations where the courts manage a multiplicity of claims via the use of test cases. One lawyer, formerly working for a union law firm, launched his own business. He organized information campaigns in local councils and hospitals, recruiting former union reps, and started blaming the way unions were handling cases. In one year, he initiated more than 10,000 claims, mostly group claims, forcing unions to take on new cases and suing one of them for having failed to protect its female members’ interests.<sup>9</sup>

This intensive use of litigation has called for many controversies amongst trade unionists and academics. Depending on periods, litigation has acted as substitute or complement to collective bargaining (Deakin et al. 2015; Guillaume 2015a). It has developed on the back of discriminatory collective bargaining practices but, without the existence of collective agreements, it is doubtful that pay arrangements would have been sufficiently

transparent for litigation to be launched. It has delivered tangible gains for some highly disadvantaged groups whose interests had been neglected by trade unions and it has helped to secure bargaining outcomes, forcing employers to engage in negotiating large-scale grading and pay agreements in the public sector. The collectivization of individual litigation through a strategy of multiple claims has allowed to address the systemic nature of pay inequalities and to support innovative job evaluation schemes. However, litigation remains a daunting prospect for claimants who have to seek to enforce their rights within an adversarial tribunal system where procedures remain complex and slow. Since the introduction of higher fees to access justice in 2013, claimants with no union support have clearly been deterred from going to the courts. British legislation has provided for an extensive range of business arguments to be posited against the equality principle to justify what otherwise would amount to discriminatory practices (Dickens 2007). Success rates for applicants at tribunal are not very high (see Table 4.1). Overall, mass litigation strategies have led to an increase in employers' intransigence and the cost of equal pay settlements has constrained and stalled implementation (Oliver et al. 2014). The number of equal pay claims has also dropped since 2011. Most local authorities have finally implemented *Single Status* and settled their legal cases. New developments are expected in the private sector with an ongoing massive claim against ASDA handled by "no win no fee" lawyers on behalf of 20,000 female cashiers who are asking the same pay as their male colleagues working as storekeepers.

Considering the limitations of the law itself and of litigation, and the weaknesses of bargaining (Milner and Gregory 2014), many scholars have called for the enactment of positive duties to eliminate discrimination and actively promote equality (Dickens 2007; Fredman 2008). Following consultations, the British Labour government decided to introduce a Gender Equality Duty in 2007, after the Race Equality Duty in 2001 and Disability Equality Duty in 2006. Following the 2010 Equality Act, these duties were combined into a Single Public Sector Equality Duty (PSED) that also encompassed other equality strands on religion and belief, age, sexuality gender reassignment, pregnancy and maternity. Rather than providing additional rights for individuals, the PSED intends to foster an organizational focus placing responsibilities on public authorities as employers and service providers. Under the PSED, the duty bearer becomes responsible for eliminating structures, policies and practices that have an adverse impact on the protected group. These duties obviously seek to pre-empt legal

**Table 4.1** Equal pay litigation in the UK

	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006	2007-2008	2008-2009	2009-2010	2010-2011
Equal pay claims received	4712	17153	8762	5053	4412	8229	17268	<b>62700</b>	45700	37400	34600
Jurisdictions disposed	590	1288	2252	1158	1563	3943	11323	9471	20148	20100	25600
Withdrawn	233	936	665	484	668	1493	4373	4899	16335	14300	15300
ACAS conciliated	229	208	381	173	578	1559	1441	1512	2000	2300	3000
settlements											
Struck out	18	89	1021	409	240	778	1614	2189	1629	3100	5300
not at a hearing											
(disposed of otherwise)											
Successful at tribunal	9	11	149	47	51	20	<b>3722</b>	678	36	200	280
Dismissed at preliminary hearing	26	9	8	3	3	17	23	83	62	110	36
(dismissed at hearing—out of scope)											

*(continued)*

**Table 4.1** (continued)

	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006	2007-2008	2008-2009	2009-2010	2010-2011
Unsuccessful at hearing (dismissed at hearing—other reasons)	75	35	28	43	23	76	124	105	82	77	1700
Default judgement	NA	NA	NA	NA	NA	NA	26	5	4	10	7

Source: Employment Tribunal and EA Statistics (ETS) reports

cases by requiring public authorities to anticipate and address potential sources of discrimination before cases emerged. They provide a basis for public sector to move away from a model that relies on individuals making complaints in an adversarial legal system. However, following the election of a Conservative government in 2011, the scope and ambition of PSED were restricted, especially on equal pay issues for which no direct provisions were envisioned. At the local level, recent research has shown that the implementation of equality duties can be constructed or undermined through the policy process (Conley and Page 2015), but rarely addressed equal pay matters. The situation is even worse in the private sector, where no coercive legal obligations exist and pay inequalities are rendered invisible and difficult to address because of non-transparent and individualized pay systems, and very low levels of union density.

#### 4 CONCLUSION

The UK case clearly highlights the potential conflict between individuals' legal rights and collective attempts to achieve long-term fair pay agreements for all employees. Besides, despite significant legal cases that have made their way up to the European Court of Justice, the notion of equal value has had difficulties to advance in the individualistic straitjacket of the Equal Pay Act (Gregory 1996; Fredman 2008) that has not been amended by the 2010 Equality Act. Yet, compared to France, the understanding of the full possibilities of equal value and indirect discrimination to challenge gendered conceptions of work and deconstruct the systemic mechanisms of the under-evaluation of women's work is much more disseminated among UK trade unionists and legal practitioners. Litigation led by the EOC in the 1980s, trade unionists and lawyers in the 1990s and 2000s has entailed innovative analytical job evaluation schemes in the public sector. Most public sector trade unions are now well aware of the necessity to consider equal pay issues when renegotiating new grades and pay agreements, even if job evaluation is now seen as a contested terrain (Gilbert 2012). Equal pay litigation and the use of job evaluation systems (both, as a proof for litigation and a remedy for discrimination) have been quite complicated for trade unions. They had to revisit their negotiation strategies and balance the diverging interests of their members, while dealing with short-term (achieving equal pay) and long-term (preserving jobs) objectives in a context of privatization and restructuring policies.

While the French government seems to concentrate all its efforts on promoting collective bargaining to advance employment equality and equal pay, lessons could be drawn from the British case. It might not be sufficient to rely on a fault-based model of implementation that encourages superficial and quantitative forms of compliance. Whereas collective bargaining offers an organizational focus that can help addressing the systemic and long-term nature of pay inequalities, its efficiency will depend on the capacity trade unions will have to train and legally educate their negotiators as well as force employers to release the necessary information on pay and career promotion. Besides, in a more fragmented and decentralized collective bargaining system with few financial resources to address inequalities and low union density, a “collective” legal route might be considered by trade unions to help enforcing equality rights at the workplace level. Whereas class action is also forbidden in French employment law, a strategy of grouping equal pay claims might help triggering negotiations with reluctant employers to obtain collective remedies, including the reviewing of job evaluation criteria and classification agreements. Some trade unionists (mainly male) did not hesitate to adopt this approach when seeking redress for their own discrimination. The question that remains then is probably: who will act as legal entrepreneurs to advance equal pay for women?

## NOTES

1. Annual Survey of Hours and Earnings, 2014 Provisional Results|19 November 2014.
2. TUC equality audit, 2012.
3. Bilan de la négociation collective en 2008, Direction de l’animation de la recherche, des études et des statistiques.
4. In 2007, the EOC became part of the Equality and Human Rights Commission along with the Commission for Racial Equality and the Disability Rights Commission.
5. The 1984 amendment opened up the possibility of taking cases on the ground of equal value, but took away the provision on collective remedies, via the Central Arbitration Committee.
6. *Enderby v. Frenchay Health Authority*, C-127/92 (1993) IRLR 591 (ECJ).
7. Following the ECJ decision on *Preston v Wolverhampton Healthcare NHS Trust* (2000) IRLR 506 ECJ.
8. Implemented with effect from 19th July 2003 by Equal Pay Act 1970 (Amendment) Regulations 2003 SI 2003/1656.
9. Case *GMB v Mrs. Allen and others*, [2007] IRLR 752 ETA.

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# Equal Pay by Gender and by Nationality: A Comparative Analysis of Switzerland's Unequal Equal Pay Policy Regimes Across Time\*

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## I INTRODUCTION

This article seeks to explain the establishment of two different equal pay policy regimes in Switzerland—that is, equal pay by gender (EPG) and equal pay by nationality (EPN)—as well as their unequal effectiveness. The period under scrutiny stretches from the late 1990s, when Swiss policy-makers enshrined both the EPG and EPN principles in law, to 2014, when it became evident that both equal pay policy regimes were facing new challenges, albeit for different reasons. Whereas employer associations rejected

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a further strengthening of the EPN policy regime in 2013, as was often the case when neocorporatist arrangements became too restrictive for capital in the past (Schmitter and Grote 1997), the government proposed in October 2014 a reinforcement of the EPG law (Bundesrat 2014), despite employer resistance. In so doing, the government was following the advice of a governmental expert group that criticised the existing EPG regime as ineffective and suggested new EPG enforcement measures, including mandatory audits of companies' payroll accounts (Müller et al. 2013). Incidentally, it is precisely this measure that proved to be a central feature in Switzerland's EPN regime.

In 1996, the Gender Equality Act (GEA) came into force to provide mechanisms to redress violations of the principle of equal pay for work of equal value for men and women. As far back as 1981, the Swiss people had approved a corresponding constitutional amendment by referendum and, on the 10th anniversary of the amendment in 1991, the Swiss Federation of Trade Unions (SGB-USS) organised a widely followed national women's strike for its implementation. In 1999, the Swiss people also approved several bilateral agreements with the European Union (EU) by referendum, including the bilateral Agreement on the Free Movement of Persons (AFM) between the EU and Switzerland in conjunction with a package of 'accompanying measures' that ended an era of unequal legal treatment of workers of different origins on the Swiss labour market. Whereas the accompanying measures aim at the prevention of 'unfair competition' or 'social dumping' in the Swiss labour market, the AFM introduced into Swiss law the principle of 'equal treatment' for European workers regardless of their nationality.<sup>1</sup>

If one compares the GEA's enforcement mechanisms on equal pay with those of the accompanying measures, one is struck by the different implementation strategies employed in the two cases. The enforcement of equal pay for men and women relies on litigation, which means that remedies must be sought by individual plaintiffs through the court system; *nota bene* in a situation in which there is no meaningful protection against unjustified dismissals.<sup>2</sup>

Thus, Switzerland's EPG regime mirrors the individualistic labour market regime that is characteristic of countries that are usually classified as 'liberal market economies' (LMEs). In contrast, Switzerland's EPN regime mirrors the neocorporatist patterns that exemplify 'coordinated market economies' (CMEs). Accordingly, infringements of the principle of EPN are usually not the subject of court proceedings, despite the AFM's explicit direct *and* indirect anti-discrimination provisions.<sup>3</sup>

Instead, this principle is enforced by bi- or tripartite commissions that have obtained extensive investigation and enforcement powers following several legal changes resulting from the ‘accompanying measures’ to the AFM. Thus, victims of pay discrimination frequently alert a union about their circumstances. Subsequently, the union usually requests an audit of the suspected company’s payroll accounts by the competent commission, without revealing the name of its informant. Likewise, individual companies can suggest an examination of a competitor’s payroll account to ensure a level playing field in a given economic sector.

If one compares the number of enforcement actions taken by tripartite commissions to impose equal pay for workers of different national origins with the number of gender-related pay discrimination cases that are taken to Swiss courts, one is also struck by the huge difference in the policing and enforcement of equal pay policies in the two areas. Whereas tripartite commissions checked the payroll accounts in over 35,000 companies in 2010, the Swiss courts examined fewer than 100 gender-related pay discrimination cases in the same year. Given that origin-based pay discrimination is significant in specific sectors with a high percentage of posted workers while gender-related pay discrimination is prevalent everywhere, the unequal enforcement of equal pay policies across gender and national origin is even more puzzling.<sup>4</sup>

The focus of this qualitative comparative analysis (QCA) across time is the development of two equal pay regimes that occurred at the same time within the very same country. This allows us to avoid the inherent methodological nationalism of the ‘varieties of capitalism’ (VoC) literature (Crouch 2009; Erne 2013). Nonetheless, the VoC literature provides us with useful insights (Rubery 2011), even if pay gaps are rising in some CMEs, notably due to the growth of a non-unionised low-wage sector in countries without statutory minimum wages. In Germany for example, the low-paid part-time ‘mini jobs’ created by the supply-side-oriented ‘Hartz reforms’ amounted ‘to nearly 7 million workers in May 2005, of whom 70 per cent are women’ (Fagan et al. 2006, p. 582; see also Smith 2012). What makes the VoC literature intelligent is not the use of stylised ‘national models’ by some of its followers, but its holistic approach, according to which interrelated complementary configurations—rather than individual independent variables—explain socio-economic outcomes. Accordingly, we have chosen a qualitative comparative research design, which distinguishes itself from conventional quantitative approaches by its configurational approach and its search for set relations (Fiss 2007; Schneider and Wagemann 2012).

The next section justifies our study's approach in relation to the existing literature and presents a set of common and distinctive factors that provide the basis for our QCA across time. We then assess the formation and unequal effectiveness of the two Swiss equal pay policy regimes—for men and women (Sect. 3) and for workers of different origins (Sect. 4)—in greater detail across time. We focus our analysis on the dynamics within and between employers, unions and women's organisations, given the important role played by interest politics in the socio-economic sphere. Finally, the chronological accounts of the process of the policymaking trajectories in the two parallel cases are used to assess the explanatory power of the different factors included in the 'truth table' of our QCA.

## 2 ASSESSING EQUAL PAY AND VARIETIES OF CAPITALISM: A 'NATURAL' EXPERIMENT

Although equal pay for men and women for work of equal value is the legal norm in almost all LMEs, comparative political economists have shown that wage inequalities of all kinds tend to be smaller in CMEs. Accordingly, using aggregate national measures, such as union density or collective bargaining coverage (Blau and Kahn 2003; Rueda and Pontusson 2000), scholars have explained a large part of the international differences in the gender pay gap in terms of different national labour market institutions. Given the unavoidably aggregate nature of the measures on which cross-national quantitative studies rely, it is difficult to ascertain which specific labour market and equal pay policy mechanisms explain pay gaps across countries. This is either because reliable comparative measures are not available<sup>5</sup> or because national differences in pay and pay inequalities can be caused by a wide array of explanatory factors that are not amenable to effective control.<sup>6</sup>

One way of advancing our knowledge on the relationship between pay gaps, equality law and labour market institutions consists in also adopting complementary analytical approaches (Galtung 1990), as has been done by many qualitatively oriented scholars who have analysed different equal policy regimes at the national or workplace level. Given that the quantitative comparative literature in the field confirms that CMEs are better at reducing income inequalities, it is striking that a clear majority of qualitative studies are situated in LMEs.

English-speaking scholars are divided between (1) those who criticise the overly prescriptive, complex and therefore presumably ineffective hard law and (2) those who fustigate the weak contribution of soft law, corporate social responsibility policies and voluntarist industrial relations in addressing the gender pay gap (McLaughlin 2014; Deakin et al. 2015; Conley 2012; Dickens 1999). This polarisation of the debate, however, may be neither a consequence of a universal truth, that is, the unavoidably autopoietic nature of the legal subsystem of society (Luhmann 1989), nor the result of the ignorance of those who fail to see the way out of Luhmann's system theory offered by 'reflexive regulation' (McLaughlin 2014, p. 4). Instead, this polarisation may simply be a contingent consequence of LMEs' notorious difficulties with binding institutions of social coordination that are supported by hard law but are not enforced through the court system, as is so common in CMEs. After all, CMEs' neocorporatist institutions do not depend on the reflexive nature of deliberation processes, but rather on the constraining nature of their bargaining institution as well as on a balance of class forces between capital and labour which make deliberations possible in the first place (Grote and Schmitter 1999). Although many neocorporatist arrangements that characterise CMEs have proved beneficial for employers as a group, they have nevertheless limited the management prerogative of individual employers (Streck 1997). We have therefore chosen to study equal pay policies in a country in which political 'entrepreneurs' make use of both liberal and coordinated approaches to social regulation. Even if corporatist arrangements play a central role in the Swiss case (Kriesi and Trechsel 2008), the concomitant presence of 'redundant' liberal features may not only be crucial in explaining institutional change across time, as shown by Colin Crouch (2005), but also internal variation across sectors and policy areas.

Our selection of two parallel cases also provides us with a genuine QCA research design (Ragin 1989; Caramani 2009; Schneider and Wagemann 2012). Although the explanatory factors that we are assessing are not controlled in the traditional sense of a randomised experiment, our study can be viewed as a natural experiment because our deliberate case selection allows us to control for a wide range of explanatory factors. Our parallel cases triggered both liberal and neocorporatist equal pay policy regimes, even though they evolved within the same political system during the same time period—involving the same government, population, political parties, unions and employer organisations. Our comparative analysis is

thus based on a ‘most similar case’ design that allows us to control for factors recurrently used to explain the use of different regulatory designs across countries. This allows us to systematically assess alternative explanatory factors to explain different policy outcomes, namely levels of political will, dynamics between interest groups, social movements, political parties and the government and a different framing of the policy problem in public policy debates. As the principle of equal pay for work of equal value in both Swiss cases was approved in parliament and in popular referenda with similar majorities, the different outcomes cannot be explained by diverging levels of political will and support. However, the role played by interest groups and social movements differed substantially. Whereas Swiss employer organisations supported the accompanying measures that entailed the equal pay principle for workers of different origins, they opposed the GEA. As a result, policymakers could not rely on corporatist mechanisms to implement equal pay policy for men and women and this undoubtedly undermined its effectiveness. But why would employers reluctantly accept equal pay policies in one field and not in another? After all, both policies entail additional costs for capitalists. Following economic sociologists and public policy analysis showing that both markets and social policies are social constructs (Muller 2005; Naumann 2005), this article explains the unequal success of the equal pay policies also in terms of the different frames of reference employed in the two cases. Table 5.1 reiterates the set of explanatory factors mentioned above and indicates their values based on the following in-depth assessment of each case.

Too often the values included in QCA ‘truth tables’ are the result of approximations rather than of a long-term engagement with the research field. Consequently, the reliability of the empirical information captured in Table 5.1 must be corroborated by a detailed assessment of the processes of policy formation and implementation across time. Therefore, the next two sections trace the activities of all actors involved in these processes, namely federal and cantonal administrations, parties, unions, employer organisations and women’s organisations. Our research is based primarily on an analysis of documents published by federal and cantonal authorities, political parties, unions, employers’ organisations and women’s and migrants’ associations between 1990 and 2014. In addition, we had numerous conversations with equal opportunities officers, industrial relations practitioners and public representatives. We were also able to observe internal discussions on equal pay within Swiss trade unions, feminist groups and bi- and tripartite commissions on various occasions between 1990 and 2014.



**Table 5.1** Switzerland’s unequal equal pay policies by gender and by nationality

	<i>Gender equality act<sup>a</sup></i>	<i>Bilateral agreement on the free movement of persons and accompanying measures<sup>b</sup></i>
<i>Factors that explain the enactment of the equal pay principle in both cases</i>		
Political support (population)	Yes	Yes
Political support (parliament)	Yes	Yes
Interest group support (trade unions)	Yes	Yes
<i>Factors that explain the enactment and unequal design of the two equal pay policy regimes</i>		
Dominant policy framework (anti-discrimination)	Yes	No <sup>c</sup>
Interest group support (women’s organisations)	Yes	Not applicable
Liberal regulatory strategy based on individual litigation	Yes	No
Dominant policy framework (fair competition)	No	Yes
Interest group support (employer associations)	No	Yes
Neocorporatist regulatory strategy (payroll audits by tripartite commissions with law enforcement powers)	No	Yes
<i>Policy outcomes</i>		
Effective enforcement of equal pay policy	No	Yes

<sup>a</sup>The Gender Equality Act enshrines equal pay for work of equal value for men and women

<sup>b</sup>The bilateral Agreement on the Free Movement of Persons and the Accompanying Measures enshrine equal pay for all EU/EEA workers in any one location, irrespective of their country of origin

<sup>c</sup>The AFM nevertheless also outlaws any direct and indirect discrimination based on nationality

### 3 EQUAL PAY FOR MEN AND WOMEN: A LIBERAL SOLUTION WITH LIMITED EFFECTS

Swiss gender equality policy developed outside the corporatist networks that characterise the country’s employment policy regime. Several collective labour agreements (CLA) include gender equality provisions, but there is little coordination between the confederation’s gender equality

policy and those developed through industrial relations. Given its direct democratic institutions, however, the country is very open to influences from civil society.

Since 1981, the legal equality of women and men and the principle of equal pay for work of equal value have been enshrined in the Swiss Constitution. This followed a popular initiative entitled ‘Equal Rights for Men and Women’, which resulted from the political mobilisation of the women’s movement in both its traditional and modern forms (Chaponnière-Grandjean 1983; Joris and Witzig 2001). The 1981 constitutional amendment led to new legislation governing marriage and the GEA, which came into force in 1996. It gave effect to the right to equal pay for work of equal value enshrined in the Constitution and prohibits discrimination in employment in principle. The adoption of the act was preceded by a huge mobilisation of women’s organisations and unions, including a successful national ‘women’s strike’ on 14 June 1991, involving around half a million women, that is, more women than were actually union members. The strike was called by the unions on the 10th anniversary of the vote on the 1981 equal rights amendment to protest against the failure to implement the Constitution’s equality principle.<sup>7</sup>

The GEA has been celebrated as a milestone in gender equality policy in employment. Apart from granting women’s access to litigation, however, the GEA does not contain any effective enforcement mechanisms; this means that GEA implementation has effectively been individualised. Proactive state action in monitoring gender pay gaps relates only to the public procurement process. Although the principle of equal pay has been enshrined in law, its implementation is largely left to the affected employees; this means that Swiss gender equality policy relies on a ‘liberal’ public policy regime (Fuchs 2008, 2010; Imboden 2008). Up to 2013, around 600 gender discrimination cases had been documented, with 2009 being a record year when 128 cases were brought in the German-speaking parts of Switzerland alone. One half of all cases relate to pay and the majority of cases are from the public sector: in administration, education, health and social care. A number of successful union-sponsored litigation cases in the public service, brought by healthcare workers and kindergarten teachers, led to substantial wage increases and back payments (Fuchs 2013).

In comparison to the UK, where strategic litigation became the primary strategy in the fight against the pay gap (Guillaume 2015; Deakin et al. 2015; Dickens 2006), equal pay claims occur less frequently in Switzerland. In comparison to the derisory low figures of equal pay

litigation in Germany (31 cases), France (16 cases) and Poland (one case) during the period (1996–2007), the 49 Swiss equal pay cases during the same time frame do stand out (Fuchs 2013). Given the lack of protection against revenge dismissals, Fuchs' classification of Switzerland's gender equality regime as a case of a 'strong legal opportunity structure' seems to be rather far-fetched. Certainly, equal pay for men and women is indeed a constitutional right in Switzerland, in contrast to many other jurisdictions. In addition, Swiss courts are not confined to the evaluation of evidence presented by the litigating parties, but can conduct their own investigations. Nevertheless, the distribution of the litigation risk is very unevenly spread. The probability of an equal pay case being brought against a Swiss company is below 1:12,000. By contrast, only 7 % of female private sector workers who took their employer to court were keeping their posts after litigation (Imboden 2008). This is not surprising considering that 'action still falls to be taken by those discriminated against, rather than by those in positions of power' (Dickens 2006, p. 304). Given the strong political will in favour of EPG, however, why have Swiss policymakers nevertheless chosen a liberal implementation regime, despite its apparent ineffectiveness?

In the mid-1980s, unions and women's organisations were very critical of the fact that the Swiss authorities had failed to implement the 1981 equality amendment to the Constitution. They jointly called for the constitutional EPG clause to be applied directly and argued in favour of a speedy introduction of equality legislation. In 1986, the federal government established an expert group with the remit of examining pay inequality and presenting appropriate policy solutions. As is customary in Swiss politics, the expert group was composed of interest group representatives, civil servants and academic experts. Whereas unions and women's organisations had already supported the intention of the Swiss federal government to enact a gender equality act in the pre-parliamentary phase of the policymaking process, employer organisations disputed both the need and likely effectiveness of legislative action. In addition, employers worried about legislation interfering with the autonomy of private enterprise (Kaufmann 2009). After the national women's strike of June 1991 and the lobbying of traditional, middle-class women's organisations, however, Switzerland's mainstream centre-right parties also supported the GEA proposal in parliament, despite continued employer resistance. In addition, the pro-European mainstream parties of both the centre-right and the centre-left supported the GEA in order to act in accordance with EU law (Parlamentsdienste 1995; Fuchs 2013).

Employer opposition did not prevent the adoption of the GEA. Nevertheless, it effectively excluded the adoption of a corporatist implementation regime for the equal pay policy for men and women. The federal government gave ‘very heavy weighting’ to the objections of employer organisations (Kaufmann 2009, p. 16). As a result, the demands for an authority with investigative powers, the right to inspect documents and the right to information in relation to individuals—which had received majority support during the consultation process—were rejected during the legislative process due to employer opposition. The federal government also decided not to grant special investigative powers to the Federal Office for Gender Equality as ‘employers were particularly worried about the Swiss government interfering in their autonomy and in the workplace’ (Bundesrat 1993, p. 1274). Although academic economists stressed that an effective implementation of equal pay policies would increase economic efficiency and enhance labour market performance (Littmann-Wernli 1991), these voices failed to influence the preferences of Swiss employers. Hence, the GEA failed to assign any role either to social partners or to governmental agencies in the implementation of the act, despite their significant role in other areas of pay determination. As a result, a government-appointed expert group concluded, the effect of the act remains very limited (Stutz et al. 2005).

The interest politics dynamics that shape the formation of a public policy also influence its implementation. It is thus hardly surprising that employer resistance is also evident at the level of execution. The implementation of a particular policy is often determined less by its own characteristics than by the context of its conception; this latter defines the frame of reference for the implementation of the policy by the implementation actors. Therefore, the implementation of the equal pay principle for men and women is left to voluntary, non-binding measures that aim to raise employers’ awareness and to equally ineffective litigation processes. In 2008, the Swiss governmental department responsible for GEA implementation reiterated its preference for ‘voluntary approaches rather than state coercion’ (Bundesamt für Justiz 2008) and initiated a ‘wage-equality dialogue’ with the goal of persuading 100 companies to accept an econometric assessment of their employees’ wages and pay scales within five years; however, with very limited success.

Nevertheless, gender equality issues have played a greater role in the negotiation agenda of social partners, first and foremost because of union pressure. As late as 1993, every sixth CLA included wage categories—such as ‘light work’ and ‘heavy work’—that indirectly discriminated against

women (Baumann et al. 1995). Meanwhile, progress has been made with regard to equal pay. Part-time employees are now covered by CLAs. Furthermore, commitments have been made to enshrine gender equality in different sectors and, in a few cases, new instruments, such as the gender equality commission in the metal manufacturing industry, have been introduced. Opposition from employers and the low level of union organisation in sectors with a high number of female employees mean, however, that collective bargaining results in terms of equal pay are still very inadequate. In addition, the organisational power of women within unions continues to be relatively weak (Ballmer-Cao 2000; Monney et al. 2013), although the percentage of female union members has doubled since the 1991 women's strike. Within the SGB-USS, the percentage of women increased from a low of 12.7 % in 1990 to 27.4 % in 2010 (Schweizerischer Gewerkschaftsbund 2011, p. 12).

The biggest obstruction on the way to equal pay for men and women, however, remains sustained employer resistance. Given the substantial costs of the wage increases that would be required to eliminate the gender pay gap, employer opposition against a more effective GEA is not surprising. It must also be noted, however, that the GEA is not the only act promoting equal pay. Swiss procurement legislation requires companies bidding for tenders to adhere to the principle of wage equality between women and men. As a result, the federal government has developed an analytical instrument based on econometric regression analysis in order to investigate wages paid in companies that respond to public tenders (Eidgenössisches Büro für die Gleichstellung von Frau und Mann 2006; Chicha 2006). But whereas policy debates about the GEA were framed in terms of equal rights for men and women, the policy debate in the case of the Swiss procurement legislation centred on the avoidance of a distortion of competition that is disadvantageous to fair employers. Intriguingly, the latter frame of reference proved also to be of utmost importance in the following, second case of our analysis.

#### 4 EQUAL PAY FOR WORKERS OF DIFFERENT ORIGINS: A MORE EFFECTIVE NEOCORPORATIST SOLUTION

Despite the Swiss electorate's narrow rejection of entry into the European Economic Area (EEA) in 1992, Switzerland subsequently opened its market to workers and service providers from the EU. The opening of the Swiss labour market represented a radical change in Swiss migration

and labour market policy. Hitherto, Swiss labour market policy had been characterised by a discriminatory system of employment permits for migrant workers, which initially had also been supported by the trade unions (Schmitter 1981; Steinauer 2006).

After the prospect of both EEA and direct EU membership evaporated, EU and Swiss policymakers chose a bilateral approach instead and successfully negotiated a package of bilateral Switzerland–EU agreements, which led to Switzerland’s integration into the Single Market. In order to facilitate the ratification of the AFM in a popular referendum, Swiss policymakers attached a legislative package of accompanying measures to the Switzerland–EU agreements to facilitate the enforcement of the principle of equal pay for workers of different origins. These measures were agreed in 1999 and came into effect in June 2004. As a result, both Swiss and foreign employees were to be protected from an undercutting of wages in Switzerland. Hence, pay and employment conditions are no longer linked to an employee’s origin; instead, Swiss migration and labour law focuses upon the protection of employment conditions of all employees, independent of origin. Abusive undercutting of Swiss wage and employment conditions are to be combated with the help of the following acts and measures.

Firstly, a new federal Posted Workers Act (*Entsendegesetz*, EntsG) stipulates that workers transferred to Switzerland for the purpose of providing a service are subject to the wage and employment conditions that apply in Switzerland. The EntsG also enables federal and cantonal authorities to impose binding minimum wage conditions as part of a normal employment contract in sectors not covered by CLAs.

Secondly, a reinforced federal act on the extension of CLA (*Bundesgesetz über die Allgemeinverbindlicherklärung von Gesamtarbeitsverträgen*) facilitates the legal extension of CLAs to all employers and employees operating in a particular economic sector.

Finally, the accompanying measures also include the setting up of tripartite commissions, with extensive law enforcement powers, composed of employer, union and state representatives at federal and cantonal levels. Interestingly, however, in this policy field, Swiss equal pay policy has not been framed in terms of the anti-discrimination language that guides the GEA and the AFM. On the contrary, the primary goal of the revised legislation is ‘to prevent social dumping and wage dumping that is disadvantageous for employees in Switzerland’ (Bundesrat 1999, p. 6392).

The accompanying measures are a good example of the functioning of Swiss neocorporatism (Oesch 2007). Given that ‘unions have traditionally

been the junior partner in Switzerland's corporatist arrangements' (Oesch 2011, p. 84), however, the substantial curtailment of employers' management prerogatives by the measures requires an explanation: 'Less than a decade after prominent business representatives had declared collective agreements a model of the past, employer associations had to accept the reinforcement of collectively agreed minimum wages, the facilitation of extension clauses and the hiring of works inspectors' (Oesch 2011, p. 92).

According to the liberal theory that has dominated Swiss economic policy for decades, employers should resist collective labour market regulations, especially with regard to wages. Accordingly, Swiss employer associations always clearly rejected requests for the introduction of a statutory minimum wage. Until very recently, important Swiss employer associations even resisted wage provisions in sectoral collective agreements. The so-called peace agreement between Swiss metalworkers' unions and the Employer Association of the Swiss Mechanical Engineering Industry dating back to 1937 (Fluder and Hotz-Hart 1998), for example, did not contain any minimum wage provisions until 2013. It is therefore not surprising that the Swiss federation of employer associations reiterated in 2011 that 'the regulation of wages is the responsibility of company owners or shareholders. ... There is no acceptable reason for state interference' (Schweizerischer Arbeitgeberverband 2011, p. 3). Even so, a majority of Switzerland's employer organisations *de facto* accepted the contrary when they endorsed the accompanying measures in 1999.

Employers' support for the accompanying measures can be explained as follows. Firstly, Switzerland's employers were divided. Important export-oriented Swiss companies, especially in industry, were against these measures as they would decrease their international competitiveness. In turn, the more domestic-oriented companies, especially in the construction industry, fully supported the measures that aimed to prevent unfair competition from competitors who would not adhere to Swiss wage agreements and working conditions. Secondly, the measures' tripartite implementation structures that guaranteed employers direct access to the policy implementation regime also alleviated some fears of unreasonable state interventionism. It is, however, reasonable to suggest that the proponents of the accompanying measures within Switzerland's employer organisations would not have been able to overcome the internal employer opposition if Swiss unions had not been able to use the popular referenda about the bilateral Switzerland-EU agreements as an effective 'political lever' (Wyler 2012).

Despite Switzerland's relatively low union density rate of only 16.2% (Organisation for Economic Co-operation and Development 2013), Swiss unions have often been able to veto undesirable legislative proposals (Fischer 2003). Although economic globalisation and Europeanisation processes repeatedly led to a decline of union power in most countries, the recurrent need to ensure popular majorities in favour of a continuous integration of Switzerland in transnational markets ironically provided Swiss unions an opportunity in which they were able to make use of considerable political mobilisation and exchange power (Afonso 2010, 2012; Afonso et al. 2010; Wyler 2012). After the rejection of EEA membership in the popular referendum in 1992—despite the SGB-USS leadership's unconditional support for EEA and even EU membership—Switzerland's union leaders could convincingly argue that further economic integration would only gain popular support if workers' fears about a race to the bottom in wages and labour standards were addressed. At the same time, a new, more radical generation of union leaders came to power. Moreover, Swiss unions adopted much more inclusive union attitudes towards migrant workers and this in turn led to important changes in union membership structure (Steinauer and Allmen 2000; Arlettaz and Arlettaz 2006). Until the 1992 EEA referendum, Swiss union policy primarily reflected the concerns of the predominately Swiss workers employed in the export industry. After 1992, however, union policy increasingly emphasised the concerns of Switzerland's domestic-oriented sectors, ironically also because unions proved to be much more successful in organising the migrant workers employed in construction and other domestic sectors.

Whereas export-oriented union leaders argued in the 1992 EEA referendum that the threat of wage dumping was 'not all that great' and even conducted a joint Yes campaign with employer organisations (Wyler 2012, p. 137), employers and unions operating in domestic sectors endorsed the EEA agreement much more reluctantly. In 1989, the construction workers' union was already demanding measures against the undercutting of wages through the introduction of the 'local wage principle' for posted workers and asked the SGB-USS to envisage a 'popular initiative' against wage dumping. This idea re-emerged when the union confederation discussed its recommendation to voters in relation to the EEA referendum. At the time of the EEA vote, however, the idea of accompanying measures against wage dumping was far from reaching overall consensus, even within the labour movement. Before the EEA vote, not only employers but also a leading unionist from the export-oriented manufacturing



sector attacked the ‘cartel-like’ agreements between social partners in the domestic market that would be detrimental to consumers and taxpayers (Ghelfi, cited in Wyler 2011, pp. 150–151). After the negative outcome of the EEA referendum, however, the situation changed. The No vote caused uproar within the union movement for two reasons: not only had Swiss union leaders to concede that they had not obtained any concessions from employers and the government in exchange for their support for the EEA agreement, but also they learned that the unions’ rank and file did not follow the union leadership’s voting recommendations. Consequently, the Swiss unions changed their strategy in relation to the subsequent bilateral agreements between Switzerland and the EU that replaced the rejected EEA agreement. Instead of adopting a ‘Yes But’ approach as in the EEA case, the Swiss unions threatened to campaign for a No vote in subsequent European integration referenda if their demands for accompanying measures were not integral to subsequent referenda packages. This change in union strategy was very effective, since the Swiss social partners agreed in April 1999—before the Swiss government started its official consultation process—that accompanying measures against social dumping were needed to secure the adoption of new bilateral agreements between Switzerland and the EU. Despite neoliberal criticism about the increased union influence (Schmid 1999), the agreement between Swiss employer associations and unions essentially pre-empted the later legislation by jointly calling for a ‘Swiss posted workers act’, the ‘local wages for posted workers principle’ and ‘legislation against misuse’ of the free movement of workers and services (Wyler 2012).

Arguably, the 1999 agreement on accompanying measures represented a great success for the SGB-USS. Its implementation, however, also depended on the capacity of the SGB-USS to overcome its internal divisions between unionists from export-oriented and from domestic-oriented sectors of the economy. The Unia trade union merger between the metalworkers’ union (SMUV) and the construction workers’ union (GBI), which took place in 2005, is certain to have played a key role here. It led to a shift of the SGB-USS’s centre of attention away from the export industry towards more domestic market-oriented sectors. Another change in the union movement with regard to membership must also be considered. The percentage of members from an immigrant background grew from 32 % in 1986 to around 40 % in 2007. Since the middle of the 1980s, several unions have had a majority of members from an immigrant background (Allmen and Steinauer 2000, p. 43). This is exceptional compared with the rest of Europe

(Erne 2008, pp. 90–94). Nevertheless, there are still fewer non-nationals than women present in Swiss unions' federal governance structures.

Since the accompanying measures came into force in 2004, the Swiss federal government and the cantons can enact minimum wages in cases of repeated abuse. A normal employment agreement with a binding minimum wage, however, can only be enacted under certain conditions, particularly if customary local wages are repeatedly undercut within a sector or a specific occupational field. In 2008, for example, the federal tripartite commission successfully requested the introduction of a federal minimum wage for domestic service to prevent the predominately female workers from Eastern Europe being paid wages well below customary Swiss levels when employed in Swiss households (Alleva and Moretto 2011).

The tripartite commissions are made up of equal numbers of representatives of authorities, employers and unions. In sectors with legally binding collective agreements, however, this task is delegated to social partners' existing bipartite CLA committees. In 2010 the bi- and tripartite commissions controlled the wages and labour standards of 142,535 workers employed in 36,451 companies. Of those, 99,789 workers were employed by Swiss companies and 42,746 where either self-employed or employees of a foreign firm (Staatssekretariat für Wirtschaft 2011, p. 18). In addition, the parliamentary commission of the lower house in charge of policy implementation found that every second person posted to Switzerland by a foreign company is inspected and that controls are more frequent in sectors with bipartite social partnership institutions. In the construction industry, for example, the payroll accounts of 50 % of all workers have been inspected to ensure compliance with the collectively agreed minimum wage. A high number of infringements have been detected in this area. The percentage of infringements was around 60 %, resulting in significant fines and/or back payments (Geschäftsprüfungskommission 2011, p. 21). According to Article 2.2 EntsG, the commissions set up by collective agreements that have been declared universally applicable can enforce the payment of substantive contractual penalties without delay if an employer refuses to 'voluntarily' pay outstanding wages within a given time period.

Because of the high number of inspections, a range of avoidance strategies are being used by opportunistic employers. There has also been an increase in bogus self-employment. In addition, subcontracting and temporary employment is booming. This is especially prevalent in the construction industry and related trades. The responsible parliamentary

commission concluded that ‘the system of accompanying measures is based upon a central element of the Swiss economy: the relations between social partners’. This, however, also means that ‘in areas where social partners have traditionally been less active, the accompanying measures have hardly been attained at all’ (Geschäftsprüfungskommission 2011, p. 18). The implementation of accompanying measures also varies greatly across cantons, reflecting Switzerland’s federal governance structure, differences in regional labour markets’ international exposure and different regional balances of power between social and political forces.

The weaknesses of the accompanying measures mentioned above and employers’ ingenuity in finding various ways around them, however, also led to the adoption of two additional packages of accompanying measures. The second package was put to a referendum in 2005 in conjunction with the vote on the extension of the AFM for the then ten EU accession countries. A third package proved instrumental in getting a clear Yes vote in the 2009 referendum about the extension of the AFM to Romania and Bulgaria.<sup>8</sup>

A fourth package of accompanying measures was discussed in 2013, in view of the popular vote on the anti-immigration initiative of the far-right Swiss People’s Party (SVP-UDC) and a planned referendum about the extension of the AFM to Croatia. However, the negotiations about the fourth package largely failed, as the social partners and the mainstream pro-European centre-right and centre-left parties failed to agree a joint position on the further strengthening of the accompanying measures, with the exception of a new provision that makes main contractors liable for their subcontractors’ unpaid wages. After Switzerland’s pro-European forces narrowly lost the popular vote on the SVP-UDC initiative ‘against mass immigration’ on the 9 February 2014 by a very slim 50.3 to 49.7 % majority, union leaders attributed this defeat to the employers and authorities that ‘balked at any further tightening of the flanking measures even though this was urgently needed’ (Rechsteiner et al. 2014).

## 5 DISCUSSION

It has been shown that the unequal implementation of Switzerland’s equal pay policies cannot be the result of different levels of political support, as the EPG and EPN regimes had both been endorsed by the same government and similar majorities in parliament. Yet clear differences between the two cases become apparent when the corresponding dynamics of interest politics are compared.

Most importantly, Switzerland's employer organisations consistently resisted political interventions aimed at curbing the gender pay gap. In contrast, these associations supported the accompanying measures that ensure equal pay for workers of different origins. Although the measures openly contradicted the neoliberal policy agenda set by Switzerland's leading capitalists in 1995 (De Pury et al. 1995), Swiss employer organisations supported the legal extension of collective bargaining agreements, the declaration of statutory minimum wages in some sectors that had no collective bargaining agreements and the bi- and tripartite commissions with extensive powers to enforce the payment of customary local wages for workers of different origins. The opposite stances adopted by the employer organisations led to very different regulatory implementation strategies in the two parallel cases. Whereas the GEA is based on a liberal litigation-based model of policy implementation that obliges those discriminated against to take action, the accompanying measures are implemented by neocorporatist policy networks. It is therefore hardly surprising that the principle of equal pay is implemented very unequally across the two cases.

Women and women's organisations arguably play a more important role in Swiss politics than migrants and migrants' organisations. Whereas women's votes have secured a continuous extension of women's rights since 1971 (Mottier 1995), most propositions aimed at extending the rights of immigrants have been frequently rejected in Swiss referenda. In addition, women's organisations were effectively involved in the pre-parliamentarian policymaking processes in the GEA case, whereas migrants' interests were only indirectly represented by unions. Surprisingly, however, women's groups' higher levels of access and mobilisation in the political process did not lead to the adoption of a more efficient equal pay policy. Hence, EPG and EPN policy regimes and outcomes do not vary because of the relevant groups' different levels of political mobilisation, as recurrently assumed.

Variation is better explained by different interest politics dynamics and the particular frames of reference that guide the policymaking process in a particular field. If we compare the policy framework in our two parallel cases, notable differences can be discerned. Whereas equal pay policies for men and women are framed in the language of anti-discrimination policy, the principle of equal pay for workers of different origins enshrined in the accompanying measures is aimed at guaranteeing a level playing field for all companies in a given sector. The Swiss gender pay gap policy debate has been framed as a debate about the reallocation of money from capital to female workers. Consequently, it is not surprising that employer

organisations resisted effective EPG interventions. In contrast, the Swiss policy debate about equal pay for workers of different origins was not portrayed as a conflict that sets different class interests against one another. Instead, the debate was framed in non-distributive terms as a debate about employment practices that undermine fair competition. The employer organisations endorsed this policy to prevent unfair competition from free-riders who refuse to adhere to collectively agreed wage settlements and to increase the popular support for Switzerland's participation in the Single European Market. On the other hand, both Swiss and migrant workers supported the measures because they are an effective tool in the fight against social dumping and for equal pay and working conditions.

However, the adoption of the accompanying measures also required a certain balance of class forces, as in neocorporatist arrangements generally, as well as a particular balance of power within the organisations of capital and labour. Switzerland's major union confederation, the SGB-USS, would have hardly been able to threaten a No vote recommendation in the recurrent referenda on bilateral EU–Switzerland agreements in the event of failure to provide adequate accompanying measures, if the centre of gravity within the SGB-USS had not shifted from export-oriented to domestic sectors during the 1990s. Swiss unions' exceptional successes in organising migrant workers in the 1990s also made a substantial difference. The increased effort to secure equal pay for workers of different origins reflects the increased presence of migrant workers in Swiss unions as much as the increased influence of the unions that organise construction and private service workers' unions within the SGB-USS.

The narrow victory of the SVP-UDC initiative on 9 February 2014, which can in part be attributed to the lack of renewal of the class compromise in favour of accompanying measures that had hitherto been sustaining the AFM, shows that corporatist compromises are inherently fragile. After the employer organisations and the Liberals (FDP-PLR) prevented a further extension of the accompanying measures, neither the Liberals and Christian-Democrats nor the Social-Democrats (SP-PS) and Greens campaigned passionately against the SVP-UDC proposal. After the vote, the FDP-PLR president justified his party's stance by stating that there is a point at which the regulatory costs of further 'illiberal' accompanying measures simply exceed the benefits from the bilateral agreements with the EU (Müller 2014). It remains to be seen whether organised capital and organised labour will manage to find common ground on the free movement of people and the renewal of the accompanying measures

before Switzerland's voters will be asked again to determine their country's future relationship with the EU in 2016 or 2017. Given the clear determination of the employers' associations and unions to save the bilateral agreements with the EU, it seems, however, rather unlikely that far-right politicians and employers will succeed in dismantling the existing accompanying measures that are meant to enforce the EPN principle. In this context it is also noteworthy that the rejection of strict immigration limits in the recent popular vote on the so-called Ecopop initiative by 74 % of the Swiss voters on 30 November 2014 has been interpreted by the major parties as a 'Yes to the bilateral treaties with the EU' (Geiser 2014).

## 6 CONCLUSION

Our analysis suggests that the liberal frames of references of gender equality policy—which are predicated on individual anti-discrimination law—do not provide the most effective policy framework for the closure of the gender pay gap. The more equal pay policies were framed in terms of providing a level playing field for competing firms, the more they were acceptable to organised capital. And the more employer organisations were supportive of equal pay policy principles, the more effectively they can be implemented through collective, corporatist policy regimes. For this reason, our study provides a compelling argument for reframing gender equal pay policies to make them more acceptable for employer organisations, as in the case of EPN. Incidentally, the equal, level playing field argument had already proved to be critical in the discussions that led to the introduction of the EPG principle into the EEC Treaty in 1957 in the first place. If the French employers' had not feared the unfair competition of underpaid Italian female workers, the principle would not have been included in the Treaty (Hoskyns 1996; Allais 1960).

The history of the Swiss EPN regime, however, has also been a history of constantly 'moving goal posts' as in the EPG case (Rubery and Grimshaw 2015). As long as we are living in a capitalist society, opportunistic employers will always try to find ways around labour and equality law. It must therefore be reiterated that the framing of equal pay policies as a 'beneficial constraint' (Streeck 1997) is acceptable for business interests only if a particular set of power constellations sustain them (Wright 2004). It would therefore be wrong to conclude that the findings of this study would justify a detached state, as simple 'business case' advocates for equal pay may be arguing. However beneficial equal pay policies may be for business as a whole, they must constrain every single company to be effective.

Finally, the comparison of equal pay policies by gender and by nationality not only turned out to be a good choice for the methodological reason outlined in Sect. 2. The larger thematic scope of our equal pay study also helps to explain an unexpected policy shift in Switzerland's EPG regime. On 22 October 2014, the Swiss government proposed a substantive revision of the Gender Equality Act. If the amendment is enacted, companies with more than 50 employees would become subject to compulsory 'equal pay for work of equal value' audits of their pay structure, which must be conducted either jointly by trade unions and employer associations or by qualified external auditors (Bundesrat 2014). The proposed amendment follows an expert group report, which first assessed different equal pay policy regimes (including the Swiss EPN regime) and then suggested the introduction of compulsory audits of companies' payroll accounts to close the gender pay gap (Müller et al. 2013). Once it becomes socially acceptable for external inspectors to get access to firms' payroll accounts to fight social dumping in relation to non-national workers, the more likely it is that the state will require external equal pay audits as well in order to tackle the gender pay gap.

## NOTES

1. 'An employed person who is a national of a Contracting Party may not, by reason of his nationality, be treated differently in the territory of the other Contracting Party from national employed persons as regards conditions of employment and working conditions, especially as regards pay, dismissal, or reinstatement or re-employment if he becomes unemployed' (Annex 1, Article 9, AFM—Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons). Whereas it has been established that the AFM prohibits direct *and* indirect discriminations of EU workers in Switzerland (Kantonsgericht Basel-Landschaft 2012; Schweizerisches Bundesgericht 2013), the Swiss courts have not yet decided whether the AFM obligates employers to pay workers equal pay for work of equal value or just equal pay for equal work.
2. Unions or women's organisations 'may in their own names have a finding of discrimination declared if the probable outcome of proceedings will have an effect on a considerable number of jobs' (Article 7, GEA). But even if a court confirms discrimination in response to a collective complaint, each affected individual must file a personal redress claim in the courts for compensation in turn. This, however, is a risky endeavour, as unjustified terminations of employment contracts remain valid under Swiss labour law.

Unfairly dismissed employees are entitled only to an indemnity that is determined by a judge but cannot exceed six months' wages.

3. The private sector union, Unia, recently backed an EPN-related test litigation case. In the case, the courts ruled that the selective enforcement of wage cuts by an engineering company through a notice of 'dismissal pending a change of contract' that was sent only to *Grenzgänger* (employees who live abroad and commute daily across borders to go to work) and not to its local workforce violated the AFM's anti-discrimination clause. The *Grenzgänger* who challenged the discriminatory wage cuts nevertheless lost their jobs (and therefore any future claims for wage payments). The courts in turn only obliged the employer to cover the litigation costs for its former employees, to pay outstanding overtime pay and compensation equal to four monthly salaries for 'abusive dismissal' (Kantonsgericht Basel-Landschaft 2012; Schweizerisches Bundesgericht 2013).
4. The fewer than 100 EPG cases taken in 2010 should be compared with Switzerland's pay gap of 13.3 % in the public and 21.1 % in the private sector (Eurostat 2013) and its comparably large female labour force. In 2012, the female employment rate in Switzerland was 61 %. This figure is above the Swedish female employment rate (60 %), the EU Member State with the highest figure, and well above the rate in its neighbouring countries: Austria, 55 %; Germany, 54 %; France, 52 %; and Italy, 40 % (United Nations Economic Commission for Europe 2013).
5. Even the most frequently used labour market indicators are not unproblematic, as the supposedly internationally comparative data published by international organisations such as the 'union density rate' or 'collective bargaining coverage rate' often mean different things in different countries (Erne 2014, pp. 238–239).
6. National wage developments and inequalities are also affected by a country's location in the global economy and its particular developmental trajectory, transnational labour migration and other social norms and structures that affect the production and reproduction of a country's labour force, including the division of paid and unpaid work (Sassen 1988; Stan and Erne 2014).
7. Although political strikes are not protected by law, on 19 October 1990 the SGB-USS congress surprisingly passed a resolution calling for the organisation of a day-long national women's strike (Eidgenössische Kommission für Frauenfragen 2001; Schöpf 1992; Wicki 1991).
8. The continuous reinforcement of these accompanying measures proved crucially important in securing Yes votes in the two subsequent Swiss referenda about the extension of the AFM to 10 new EU Member States (25 September 2005: Yes vote, 56 %) and to Bulgaria and Romania (8 February 2009: Yes vote, 60 %).



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PART III

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Gender Equality in the Realm of the  
Family

# Reconciliation of Employment and Childcare in Austria, Germany and Iceland. Examples for Gender Equality in Family Life?

*Sigrid Leitner*

## I INTRODUCTION

The reconciliation of employment and childcare is usually facilitated by (a combination of) different politics: On the one hand, time rights and cash rights enable parents to (temporarily) drop out of work or to reduce and/or flexibilize their working time in order to look after (small) children, thereby guaranteeing the “right to care”. On the other hand, the provision of childcare services facilitates the labour market participation of parents and therefore supports the right “not to care”. The first type of policies has familizing effects since it supports the family actively in providing childcare. The second type of policies has de-familizing effects because it socializes or “marketizes” the caring responsibility of the family. Assuming that welfare regimes contain familizing as well as de-familizing reconciliation policies and that each of these has either a weak or a strong

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expression, then a four-field matrix emerges with which one is able to distinguish four ideal types of familialism (Leitner 2003).

Table 6.1 maps out that only three types of familialism do hold reconciliation policies at all: The explicit familialism provides time and cash rights, the de-familialism offers childcare services, and the optional familialism gives parents both: Childcare within the family is strengthened, but the family is also provided with the option to be (partly) unburdened from childcare responsibilities. The interesting question here is, how different reconciliation policies affect gender equality in family life and which type of familialism shows the best results with regard to mothers' labour market participation and fathers' engagement in childcare. As empirical case studies, I choose two countries that are traditionally labelled as conservative welfare regimes with an explicit familialistic reconciliation policy: Austria and Germany. Both have undergone major reforms during the last ten years and can nowadays be classified into the optional familialism. This gives us the possibility to compare the effects of the reforms on gender equality in family life. Thus, we will be able to directly compare an explicit familialistic and an optional familialistic reconciliation setting within the two countries over time. The de-familialism type of reconciliation policies will be represented by Iceland which has a rather short paid parental leave scheme which is followed by a rather comprehensive public system of childcare provision. Javornik (2014) labelled this policy design "supported de-familialism".<sup>1</sup>

The next section discusses the relation between reconciliation policies and gender equality in family life by giving the prevailing state of the art. Thereafter, the parental leave regulations and the provision of childcare services in Austria, Germany and Iceland are described (Sect. 3) as well as analysed with regard to their effects on gender equality in family life (Sect. 4).

**Table 6.1** Four ideal types of familialism

<i>Familizing policies</i>	<i>De-familizing policies</i>	
	<i>Strong</i>	<i>Weak</i>
Strong	Optional familialism	Explicit familialism
Weak	De-familialism	Implicit familialism

Source: Leitner (2003)



The concluding section discusses advantages and shortfalls within different models of reconciliation from a gender equality perspective.

## 2 THE RELATION BETWEEN RECONCILIATION POLICIES AND GENDER EQUALITY IN FAMILY LIFE

Our normative frame for the evaluation of gender equality in family life is the earner-carer model. It envisions a society “[...] in which men and women engage *symmetrically* in both paid work and in unpaid caregiving [...] parents have the right to choose whether they will care for their own children or rely on substitute forms of care [...]” (Gornick and Meyers 2008, 322; emphasis in original). Therefore, the question is, if and in which way reconciliation policies support an earner-carer model. Firstly, it can be assumed that the provision of childcare services has *no direct effects* on gender equality. But, since services partly unburden carers from their responsibilities they open up new possibilities for time-use—for example, the option to take up paid work—which have been out of reach before. Although there is no automatism between the provision of childcare services and labour market participation of parents (Leitner and Lessenich 2007), services represent an important opportunity structure for gender equality at the labour market. They “[...] (fairly unambiguously) raise the prevalence and stability of mothers’ employment [...]” (Ray, Gornick, and Schmitt 2010, 198) and therefore support family models beyond the traditional male breadwinner model. Although, the decision to use childcare services instead of providing home care depends on various factors: the availability (that is flexible opening hours), the affordability and, last not least, the quality of care (Schober and Spieß 2015). Thus, Gornick and Meyers (2008, 326) promote early childhood education and care “[...] that is high quality and publicly subsidized [...]”: Not only should the burden on parents be reduced but the options of families at different income levels should be equalized.

Secondly, the gender equality effects of paid leave schemes are less clear-cut.<sup>2</sup> On the one hand, parental leave reinforces the traditional gender division of labour because it aims at stabilizing the family as a place of welfare production: Since family childcare is mostly provided by mothers, parental leave is not only supporting the family as such but also attributing childcare to mothers. On the other hand, parental leave schemes can hold incentives for a gender-egalitarian earner-carer model. Thus, the effects on gender equality differ according to the policy design. Three elements seem to be most important:

1. *Non-transferable entitlements for fathers.* Parental leave entitlements that are freely transferable between the parents create “[...] a financial incentive for mothers to take any available transferable leave whenever, as is usually the case, the mother earns less than the father [...]” (Ray, Gornick, and Schmitt 2010, 201). In contrast, parental leave periods that are exclusively reserved for fathers on a “use or lose” principle impose a gentle force on fathers to take their share of leave and care work: Fathers use non-transferable entitlements if they are high paid (Moss 2008). Thus, non-transferable entitlements for fathers hold a much higher incentive for shared parenthood than transferable entitlements.
2. *Generous benefits.* Given sex-segmented labour markets, unpaid or low-paid parental leave is unattractive for those with good earnings and reinforces the traditional gender division of work and care. In order to encourage fathers’ engagement in childcare, high wage replacement rates are recommended (Bruning and Plantenga 1999; Gornick and Meyers 2008). If the generosity of the benefit depends on former income, there is also an incentive to be employed before the birth of a child. Thus, the labour market enrolment of women before giving birth is stimulated—not least for the benefit of overall labour market attachment of mothers.
3. *Short leaves.* On the one hand, parental leave seems to strengthen women’s ties to paid work. Gottschall and Bird (2003) showed for Germany that the introduction of parental leave caused shorter spells of labour market exit and higher return rates of mothers. Re-entry in the labour market is especially facilitated by dismissal protection and re-employment guarantees. On the other hand, rather long leave periods might have negative effects on women’s employment outcomes: “However, long leave periods may create difficulties in returning to the job if there have been significant changes in the technological and organisational context of the firm in the meantime” (Organisation for Economic Co-operation and Development 1995, 188). Bruning and Plantenga (1999) recommend a maximum duration of one year in order to avoid negative employment effects for mothers. Gornick and Meyers (2008) promote six months of non-transferable paid leave for each parent. Rønsen (1999) argues that very short leave periods might also be harmful for labour market re-entry if there is a lack of childcare services for very young children. Part-time leaves might be an alternative solution to prevent mothers from exclusion processes.

Based on this short outline of the prevailing scholarly debate, we can assume that countries are most successfully supporting an earner-carer model if they provide flexible and economically priced quality childcare as well as a parental leave scheme with non-transferable entitlements for both parents, generous benefits and short leave periods.

### 3 RECONCILIATION POLICIES IN AUSTRIA, GERMANY AND ICELAND

In the following, the three reconciliation policy designs of Austria, Germany and Iceland will be described in detail in order to analyse first on a theoretical level, which effects for gender equality are to be expected for each country.

#### 3.1 *Austria: Flexible Regulation with Ambivalent Effects*

Austria was an early bird with regard to the introduction of paid leave for childcare. Since 1961, formerly employed mothers were entitled to one year of leave accompanied by a small monthly lump-sum payment. In 1990, the duration of the paid leave was expanded to two years and the entitlement was made transferable between working parents. From 1996 onwards, six months (out of the two years) were reserved for fathers on a “use or lose” base, but due to the small benefit attached, only 1 % of parents on leave were fathers. On the contrary, nearly all formerly employed mothers took advantage of the leave to its full extent. Their return-rates into the labour market were rather poor (Leitner 2013, 56–73).

A major reform of the parental leave regulation was implemented in 2002. The new *Kinderbetreuungsgeld* (childcare benefit) is available for all parents (not only for those who were employed before the birth of the child). It is still flat-rate and currently amounts to €436 per month. The childcare benefit spans a maximum of three years, if at least six months are taken by the father. Otherwise, the maximum duration is two and a half years. This expansion of the benefit span will probably result in even longer periods of labour market exits for mothers, since the low flat-rate will not motivate fathers to take leave. Moreover, the constantly low provision of childcare places hinders early re-entrance into the labour market: In 2014, only 23.8 % of children younger than three years had a childcare place (Statistik Austria 2015). The re-entrance of mothers into the labour market is furthermore complicated by the fact that the dismissal protection attached to the parental leave ends after the child’s second birthday, whereas the benefit spans up to two and a half years for one parent.

The reform, however, also entails a new policy element, which points to the earner-carer model: Parents are allowed to receive income from employment during the benefit period. Currently, the amount of €16,200 per year can be earned in addition to the full flat-rate benefit. This possibility of parallel part-time employment during parental leave supports the continuous labour market participation of mothers and acknowledges the dual role of women as mothers and workers. Thus, we indeed see a change in the implemented gender-role model: while men still cannot enjoy a realistic option to take parental leave, women are no longer restricted to their role as mothers, even though the universality of the childcare benefit allows for this restriction and even though institutional childcare is still underdeveloped in Austria, thus restricting the options of employment for mothers with young children (Leitner 2010, 461).

Since 2008 (respectively 2010), parents have two (three) alternatives to the regular childcare benefit:

1. If they claim the benefit for a maximum period of 20 months (24 months if the other parent takes at least four months), the benefit increases to €624 per month.
2. If the benefit is claimed for a maximum period of 15 months (18 months if the other parent takes at least three months), the benefit increases to €800 per month.
3. If the benefit is claimed for a maximum period of 12 months (14 months if the other parent takes at least two months), the benefit amounts to 80 % of the former income or at least to €1000 per month.<sup>3</sup>

These options support the early return of parents to the labour market and—especially in the short break models with higher benefit levels—set incentives for shared parenting. It will be interesting to see how parents choose between the different options given the restrictions in the availability of childcare.

### 3.2 *Germany: Gender Equality on the Rise*

In Germany, a paid maternity leave of six months with a capped earnings-related benefit was introduced in 1979 in order to protect working women's health and well-being. Fathers and non-employed mothers were excluded from the regulation. Paid parental leave was only introduced

later in 1986. The so-called *Erziehungsgeld* was available up to the second birthday of the child for all parents: mothers or fathers, employed or not employed. Similar to the Austrian case, the very low flat-rate benefit did not attract average fathers to take parental leave anyway; it rather called for a male breadwinner in order to support the mother on leave financially. The more so, because the parental leave period spans until the third birthday of the child, thus only the first two years of the leave are paid for. These regulations supported a traditional family model with a non-employed wife and stay-at-home mother, as well as a “modernized” breadwinner model involving a three-phase model of (1) female employment before giving birth, (2) parental leave and (3) (part-time) return to the labour market when the child started to attend the kindergarten. This was complemented by a very low level of childcare places for children aged less than three years and the introduction of the right to a (half-day) childcare place for every child older than three in the second half of the 1990s (Leitner 2010, 462f).

In 2007, the childcare benefit was reformed fundamentally (see also Auth and Martinik in this volume). The new benefit called *Elterngeld* (parental benefit) replaces 67 % of the parent’s previous income (with an upper limit of €1800 and a minimum amount of €300). The benefit is still universally available to all parents, including also formerly non-employed parents who are entitled to the minimum benefit. The benefit span has been shortened from two years to one year and can be prolonged for another two months if these are taken by the other parent (generally the father). Furthermore, part-time employment up to 30 hours per week can be combined with part-time *Elterngeld*, and both parents are allowed to take part-time leave simultaneously. It can be expected that the incentive of a reasonable replacement rate and the non-transferable entitlement will increase fathers’ take-up of parental leave. At the same time, mothers might react to the shortened paid leave period with an early re-entry into the labour market, although a long unpaid leave period until the third birthday of the child is still possible—especially for mothers with a high earning breadwinner. But the expansion of childcare places for children under three has also been speeded up: Since 2013, every child has the right to a childcare place from its first birthday. Thus, the new reconciliation policy shows a move towards the earner-carer model and at the same time actively enables parents to return to the labour market early on because of the expansion of institutional childcare.

The latest development in German reconciliation policy was the introduction of the *Elterngeld Plus* in 2015. The new regulation gives additional options to parents who combine part-time employment (up to a maximum of 30 hours per week) and part-time paid parental leave. Each month in part-time prolongs the duration of part-time paid parental leave: The benefit of part-time parental leave is reduced according to the income from part-time work (e.g. half of the benefit if working half-time), but for each month on part-time leave another month of part-time leave is granted. Thus, the span of the paid parental leave period can be expanded up to a maximum of 24 months (plus four months for the other parent). If both parents are on part-time leave simultaneously for a minimum of four months, another four months of paid part-time leave are granted to the couple.<sup>4</sup> The *Elterngeld Plus* clearly fosters shared parenthood and the employment of both parents in the frame of a part-time earner/part-time carer model. Whether parents will adapt to this model has to be seen.

### 3.3 Iceland: Parents as Workers

For a long time, Iceland was lagging behind the other Nordic countries with regard to parental leave regulations: The leave span of six months was very short, the flat-rate benefit attached was low and fathers were not entitled to parental leave at all. In the 1990s, society debated more and more about the unequal division of labour within the family and the resulting inequalities between men and women at the labour market. As a result, a major reform of parental leave took place in 2000 (Gíslason 2012). The new Icelandic parental leave regulation called *Fæðingarorlof* is an entitlement for formerly employed parents and provides a wage replacement benefit that amounts to 80 % of former earnings up to a ceiling of approximately €6000 per month. After the economic crisis hit Iceland in 2008, the ceiling was reduced several times and now is set at €1945.<sup>5</sup> The parental leave comes in three parts: Three months of leave are reserved for the mother (one of the three months can be taken before birth), three months of leave are reserved for the father, and another three months of leave can be shared between the parents as a transferable right. In addition, each parent may take 13 weeks of unpaid leave until the child's eighth birthday (Einarsdóttir and Pétursdóttir 2008).

The Icelandic model therefore sets a strong incentive for the participation of fathers in childcare and for an early return of both parents into the labour market. Although childcare places are available for 53 %<sup>6</sup> of children

under three years, there are not enough places for all children older than nine months. Usually, preschool begins around the age of two years. This childcare gap after paid parental leave varies in duration depending on the place of residence. In many cases grandparents or private nannies fill the gap, in other cases parents (mostly mothers) reduce their working time or extend their (unpaid) leave (Gíslason 2012; Arnalds, Eydal, and Gíslason 2013).

In 2012, the parental leave was planned to be extended to 12 months (five months of non-transferable leave for each parent plus two months to share between the parents) but the implementation of the reform was delayed due to financial difficulties in the aftermath of the economic crisis (Arnalds, Eydal, and Gíslason 2013). The plans to extend parental leave and to raise the maximum benefit are presently re-proposed by parts of the parliament.<sup>7</sup>

## 4 ...AND THEIR EMPIRICAL EFFECTS ON GENDER EQUALITY IN FAMILY LIFE

To analyse the degree of gender equality in family life within the three countries, data on parental leave sharing and on the employment status of parents will be taken into consideration. In a gender-equal earner-carer model, we would expect that fathers as well as mothers engage in both childcare and employment.

### 4.1 *Parental Engagement*

Our empirical indicator for parental engagement is the take-up of parental leave by mothers and fathers. We would expect a high take-up rate of fathers in the case of non-transferable rights and high wage replacements. Comparing our three countries, we would expect Icelandic fathers to show the highest take-up rate, German fathers to show a considerable take-up rate and Austrian fathers' take-up would depend on the chosen variant of the parental benefit.

Until 2008, the empirical evidence for *Iceland* shows that about 90 % of all fathers take their non-transferable right to parental leave. The non-transferable leave is not taken to the full extent in 25 % of all cases but another 25 % of fathers on non-transferable leave claim a part of the transferable leave for them. Thus, the average leave span of fathers (including non-transferable and transferable leave periods) is three months. In comparison, 99 % of all mothers take their non-transferable right to parental

leave and 90 % of all mothers take transferable leave. On average, mothers spend six months on parental leave (Gíslason 2012). It has been shown for Iceland “[...] that financially better off fathers are more likely to use their right than others and they use more days [...]” (Arnalds, Eydal, and Gíslason 2013, 328), whereas fathers who do not live with the mother are those most unlikely to take leave. It has also been shown that leave taking by fathers has sustainable effects: It “[...] increases the likelihood of fathers being involved in childcare [...]” (Arnalds, Eydal, and Gíslason 2013, 335) and changes the division of care between parents in the long run. This finding is quite astonishing since three quarters of the parents are on leave together at the same time, 20 % even spend 11 or 12 weeks on leave together. Together with the fact that about 60 % of fathers divide their leave into several short spans, it can be argued that fathers are still the secondary caregiver. They pop out of work when it seems convenient, they “[...] design their leave around their paid employment [...]” (Pétursdóttir and Einarsdóttir 2008, 88). This picture of the father as the mother’s assistant seems to prevail and even become stronger during the last few years. When the ceiling for the maximum benefit had been lowered in 2010 and afterwards, the take-up rate of fathers continuously decreased to 78 % in 2014<sup>8</sup> and it is feared that fathers will spread parental leave even more than before.<sup>9</sup> This emphasizes the importance of high benefits when fathers take their decision about parental leave.

In *Germany*, the take-up rate of fathers has increased steadily since the introduction of the new parental leave regulation in 2007. Before the reform, less than 5 % of parents on paid parental leave were fathers. Shortly afterwards, 20 % of fathers with a child born in 2008 were on paid parental leave, and now even 32 % of fathers with a child born in 2013 were on paid parental leave; 79 % of these fathers on leave took up to two months of leave, the average duration of fathers’ leave is 2.8 months. In comparison, 96 % of all mothers with a child born in 2013 were on paid parental leave. Most mothers on leave (92 %) took 10–12 months, on average mothers were 11.6 months on leave. Thus, the non-transferable right of two months paid leave for “the other partner” was mostly used by fathers. The average benefit for fathers amounted to €1143 per month, the average benefit for mothers was €601 per month (Statistisches Bundesamt 2015). This mirrors wage differences between the sexes before the birth of the child as well as higher rates of female non-employment before motherhood. Fathers with higher education and fathers with a female partner who has been employed before giving birth are more likely to take parental leave. Fathers who do



not take parental leave mostly do so because of financial reasons (48 %) or due to employment-related restrictions (35 %). Only 20 % argue that childcare is a mother's task (Bundesministerium für Familien, Senioren, Frauen und Jugend 2008). Thus, the financial needs of young families are not met by the 67 % replacement rate which is an important factor for fathers' decision not to take parental leave, but the situation at the workplace, that is the lack of a family-friendly working culture, also influences the (low) take-up rate of fathers. Only 8 % of fathers on leave divide their leave in two or more short spans. But 38 % of fathers on leave take leave simultaneously with the mother of the child (Bundesministerium für Familien, Senioren, Frauen und Jugend 2009). Thus, we can see a similarity to the Icelandic fathers and their role as secondary caregivers. Fathers with longer spans of parental leave share care work more equally with their female partners even after the leave ends and they rank their relationship to the child as more intense in the long run (Pfahl et al. 2014).

The *Austrian* case is the most complicated since it offers parents a variety of options. Recent data show that 35 % of parents take the longest version of parental leave (30 + 6 months), 27 % opt for the second longest version (20 + 4 months) and another 26 % opt for the shortest leave span (12 + 2 months) in combination with the wage replacement benefit. The 15 + 3 months as well as the 12 + 2 months in combination with the flat-rate benefit are less popular (see Table 6.2, third column).

With regard to the take-up rate of fathers, the shortest leave span (12 + 2) with replacement rate as well as with flat-rate benefit and the second shortest version (15 + 3) seem to hold the most attractive options (see Table 6.2, fourth column). In comparison to the take-up rate of German fathers, Austrian fathers lag behind with an overall take-up rate of only 18 % in the year 2015. Within the variant most similar to the German parental leave model (12 + 2, 80 % wage replacement), Austrian fathers show only a marginally lower take-up rate than German fathers. The non-transferable benefit span varies between the different versions of parental leave and so does the average length of the leave span that is taken by fathers (see Table 6.2, last column). It is noteworthy that on average fathers on leave take longer leave spans than their non-transferable rights would suggest. Fathers' reasons for not taking parental leave are mostly job related, but also due to financial issues and—traditional role models also hinder more gender equality in childcare (Rille-Pfeiffer and Kapella 2012, 41). All in all, also Austrian fathers can be labelled as secondary caregivers.

**Table 6.2** The leave choices of Austrian parents

	<i>December 2015<sup>c</sup></i>		<i>March 2015<sup>d</sup></i>	<i>May 2014<sup>e</sup></i>	
	<i>Number of parents during first year of benefit</i>	<i>%</i>	<i>Fathers on leave as a percentage of all fathers</i>	<i>Mothers on leave as a percentage of all mothers</i>	<i>Duration of fathers' leave in days</i>
30 + 6 months	21.201	35 %	11 % <sup>a</sup>	No data	No data
20 + 4 months	16.313	27 %	18 % <sup>b</sup>	97 %	174
15 + 3 months	3.636	6 %	27 %	97 %	125
12 + 2 months	3.458	6 %	28 %	84 %	110
flat-rate					
12 + 2 months replacement rate	15.922	26 %	29 %	96 %	83
Total	60.530	100 %	18 %	No data	No data

<sup>a</sup>Reading advice: Of all parents who chose the 30 + 6 variant, 11 % of fathers took part of the leave

<sup>b</sup>Of all parents who chose the 20 + 4 variant, 18 % of fathers and 97 % of mothers took part of the leave

<sup>c</sup>Source: Monatsstatistik zum Kinderbetreuungsgeld (December 2015), <https://www.bmfj.gv.at/familie/finanzielle-unterstuetzungen/kinderbetreuungsgeld/monatsstatistik.html>, 28.01.2016

<sup>d</sup>Source: Auswertung zur Väterbeteiligung beim Kinderbetreuungsgeld (March 2015), <https://www.bmfj.gv.at/familie/finanzielle-unterstuetzungen/kinderbetreuungsgeld/statistik-vaeterbeteiligung--auswertung.html>, 28.01.2016

<sup>e</sup>Source: Ministry of Family and Youth (May 2014), [http://www.parlament.gv.at/PAKT/VHG/XXV/AB/AB\\_01151/imfname\\_352830.pdf](http://www.parlament.gv.at/PAKT/VHG/XXV/AB/AB_01151/imfname_352830.pdf), 29.01.2016

## 4.2 *Employment of Parents*

Our empirical indicator for gender equality in employment is the employment rate of mothers and fathers. The more similar their employment rates in terms of overall numbers and weekly working time, the more egalitarian is their participation in the labour market.<sup>10</sup> Short leave spans might give an incentive for both parents to re-enter the labour market quickly, but the provision of childcare will be a crucial enabling factor. Thus, we will expect again Iceland to be most egalitarian in terms of labour market participation; Germany and Austria hold contradictory incentives for the employment of mothers: they offer short *and* long benefit spans.

In Iceland, the employment rate of women is among the highest in the OECD: 80 % of women and 84 % of men are in employment.<sup>11</sup> Unfortunately, there are no data available on the employment rate of Icelandic parents. A study has shown that after the reform of parental

leave in 2000, mothers returned earlier into the labour market than before and their weekly working hours were the same before and after parental leave (Gíslason 2012). Nevertheless, it has also been shown that the childcare gap after paid parental leave and before the beginning of pre-school is mostly filled up by women at the cost of their (full) labour market participation.

In Germany, the employment rate of mothers has risen considerably since the introduction of the *Elterngeld*, especially among mothers with children between one and three years. Whereas in 2006 only 33 % of mothers with a child between one and two years were employed, the percentage rose to 41 % in 2012. And while 42 % of mothers with a child between two and three years were employed in 2006, the percentage climbed to 54 % in 2012. Thus, the new paid parental leave regulation seems to support the early re-entry into the labour market for mothers. Although the increase is most of all an increase of mothers' part-time work (15 to 32 hours per week), whereas a stable 10 % work less than 15 hours per week and only 11–15 % work full-time. However, it is also interesting to see that the employment rate of mothers with a child under one year has decreased from 17 % in 2006 to 10 % in 2012 (Bundesministerium für Familien, Senioren, Frauen und Jugend 2014). This shows that the new earnings-related benefit enables more mothers to stay at home during the first year of the child than the old flat-rate benefit. When we consider fathers' employment, it seems to be steadily between 82 and 85 % independent from the age of the child, and only 5.6 % of fathers work part-time (Keller and Haustein 2014). Data show that in families with a child less than three years, both of the parents work only in 33 % of all cases. In 59 % of these families, only one parent (mostly the father) is employed; 60 % of families with young children between one and three years wish that both parents share employment and childcare equally, but only 14 % can live their dream of an earner-carer model at the moment. First data for the new *Elterngeld Plus*, which strongly supports the earner-carer model, show that 14 % of all parents with a child born after 1st July, 2015, have already taken advantage of the new *Elterngeld Plus*.<sup>12</sup> Often mothers would like to re-enter the labour market earlier but are hindered by bad surrounding conditions: the lack of adequate childcare, the lack of flexible working conditions and the lack of shared parental responsibility are outstanding factors in this regard (Bundesministerium für Familien, Senioren, Frauen und Jugend 2014, see also Bundesministerium für Familien, Senioren, Frauen und Jugend 2012).

In Austria, the new regulation allows parents on leave marginal employment up to an income of €16,220 per year without benefit reduction. About 25 % of mothers on leave use this possibility to work in minor jobs and thus stay attached to the labour market. 18 % of mothers with a child younger than one year are employed (only 7 % full-time); the employment rate rises to 31 % (7 % full-time) of mothers with a child between one and two years and to 58 % (9 % full-time) of mothers with a child between two and three years (Fuchs and Marik-Lebeck 2014). The *Kinderbetreuungsgeld* has ambivalent effects on mothers' employment: It intensifies the mother's general emphasis on employment *or* on childcare. Those mothers with high affinity to the labour market try to stay close to the labour market early on although on a very limited scale. Those mothers with high affinity to childcare realign their job perspective in order to facilitate the reconciliation of employment and care (Leitner 2013, 76ff). On the contrary, 92 % of fathers with a child younger than one year are employed (only 7 % part-time); this is the same for fathers with a child between one and two years and rises to 93 % (8 % part-time) for fathers with a child between two and three years. Thus, the male breadwinner model and its modernized one-and-a-half earner model still dominate Austrian family life (Fuchs and Marik-Lebeck 2014).

## 5 ADVANTAGES AND SHORTFALLS WITHIN DIFFERENT MODELS OF RECONCILIATION

The analysis has shown that fathers' involvement in paid parental leave is facilitated by high-paid non-transferable rights. Nevertheless, the effects differ between countries: Whereas the lowering of the income ceiling in Iceland still produces a fatherly take-up rate of 78 %, comparable benefit levels in Germany and Austria only evoke 32 % and 28 % take-up of fathers. In all three countries, even under favourable leave conditions, most fathers take only short spans of leave and do not become primary caretakers. These facts point out that leave policy is only one way to encourage equal sharing of childcare. Family-friendly workplaces and the cultural turn from traditional to egalitarian gender roles are equally important factors; all the same when we look at mothers' employment. The German and the Austrian cases still rely strongly on the (modernized) breadwinner model and the employment of mothers with young children is—if at all—mostly part-time or marginal hours. But, the expansion of childcare places also led to a rise of mothers' employment. On the other hand, the lack of

childcare places hinders mothers' employment, as has also been shown in the case of Iceland. Thus, we can see an influence of the institutional framework: It enables or hinders gender equality. But, we can also reason that institutional change does not automatically mean cultural change. It takes more than institutional regulations to overcome the traditional gender division of labour.

Iceland scores best with regard to gender equality, even since the benefit level for parental leave has been reduced. But this model of supported de-familialism gives parents only very short time spans for exclusive childcare at home. The focus is on the early re-entry of parents into the labour market, even though the enabling structure of childcare for children younger than two years is lacking.

Germany and Austria started from the explicit familialism with paid parental leave that did not hold incentives for fathers and took mothers out of the labour market for quite long time spans. The reforms during the last decade changed not only the regulations for paid parental leave, but also expanded the provision of public childcare. The conditions for fathers' take-up of parental leave have improved and led to rising take-up rates although two thirds of fathers in Germany and 80 % of Austrian fathers are still not taking any leave at all. Furthermore, the employment of mothers has been stimulated by shorter leave spans as well as by better childcare provision. Whereas the German model sets stronger incentives for an early re-entry of women into the labour market, the Austrian model gives more options for mothers to take longer leave spans and to take up marginal employment. The realignment of reconciliation policy in Germany and Austria towards optional familialism thus can be classified as a step towards more gender equality in family life. But at the same time, both countries still have shortfalls with regard to childcare provision and the Austrian childcare benefit is still supporting a (modified) breadwinner model.

## NOTES

1. Javornik sharpens her analysis of Slovenia and Lithuania as follows: "Namely, these two states first explicitly invest in familialism, whereby they also promote active fatherhood. Then, they invest in de-familialism, with the crossover point between the two types located at the child's first birthday. Such a policy combination suggests that countries pragmatically shift social investment from familial childcare to public childcare in order to facilitate women's continuous employment" (Javornik 2014, 253).

2. The analysis is restricted to parental leave regulations and neglects flexible working time regulations, which are also important for the reconciliation of work and childcare.
3. <https://www.help.gv.at/Portal.Node/hlpd/public/content/8/Seite.080601.html>, 20.01.2016.
4. <http://www.familien-wegweiser.de/wegweiser/stichwortverzeichnis,did=211804.html>, 20.01.2016.
5. <http://www.nordiclabourjournal.org/nyheter/news-2014/article.2014-11-27.4319266250>, 26.01.2016.
6. Data for 2005 from Einarsdóttir/Pétursdóttir 2008.
7. [http://icelandmonitor.mbl.is/news/politics\\_and\\_society/2015/10/22/plans\\_to\\_extend\\_paid:parental\\_leave/](http://icelandmonitor.mbl.is/news/politics_and_society/2015/10/22/plans_to_extend_paid:parental_leave/), 26.01.2016.
8. [http://icelandmonitor.mbl.is/news/politics\\_and\\_society/2015/10/22/plans\\_to\\_extend\\_paid:parental\\_leave/](http://icelandmonitor.mbl.is/news/politics_and_society/2015/10/22/plans_to_extend_paid:parental_leave/), 26.01.2016.
9. <http://www.nordiclabourjournal.org/nyheter/news-2014/article.2014-11-27.4319266250>, 26.01.2016.
10. Since detailed data on employment rates of mothers and fathers are limited, the article has to argue with the data available, although this is not fully satisfying.
11. <http://www.oecdbetterlifeindex.org/countries/iceland/>, 02.02.2016.
12. Press release on <http://www.bmfsfj.de/BMFSEJ/familie,did=223116.html>, 27.01.2016.

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# From Implicit to Explicit Familialism: Post-1989 Family Policy Reforms in Poland

*Dorota Szelewa*

## I INTRODUCTION

Post-1989 evolution of the Polish welfare state was marked by state withdrawal from organising and financing relatively generous social policy programmes that were the characteristic features of state-socialist models of support for families. Within the field of family and childcare policies, the process of re-familialisation meant withdrawal of support for formal care, as in other countries in the region with simultaneous cuts in spending on cash benefits for families. For this reason, Polish welfare state earned the label of “implicit familialism” (Saxonberg and Sirovatka 2006; Szelewa and Polakowski 2008; Szikra and Szelewa 2010) or “private maternalism” (Glass and Fodor 2007), as the lack of support on all fronts implicitly places the responsibility for care on families, meaning—women.

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Many scholars have also emphasised the link between Catholicism in Poland and conservative policies towards the family and gender (Deacon 1993; Ferge 1992; Fodor et al. 2002; Pailhe 2000). The Catholic Church was a very important actor during transformation not only due to the fact that more than 90 % of Poles declare themselves Catholic, but also because of the Church's active role in the opposition movement before 1989. Therefore, in the Catholic literature in Poland the roots of a demographic decline are usually presented in the light of a breakdown of traditional family structures and the spread of materialist attitudes. One of its consequences is "an egoist approach towards motherhood" (Zieliński 2000), as well as a "blurring of the differences between women and men as a consequence of the influence of a feminist thought" (Dziewięcki 2006). Thus, the Catholic Church promoted a more traditional distinction between female and male roles within the family and was in favour of policies that were aimed at reinforcing such a division of responsibilities.

The possibly conservative views towards gender roles are also the consequence of specific historical developments. As one of the post-communist countries, Poland inherited a relatively developed system of welfare policies from the previous historical period. Just like in other East European countries, massive mobilisation of women to join the labour force during the period of state-socialism in the region was often perceived as "forced commodification" (Adamik 1993). At the same time, as the communist leaders did not inspire gender equality at home by changing men's attitudes and roles, parental leaves were only taken by mothers, and women were engaged in both paid and unpaid work activities, that is "double burden" (Olah and Fratzak 2004). When the Berlin Wall came down, governments in the post-communist countries signalled their citizens' want to "come back to normality" by sending women "back home" (Fodor et al. 2002; Kocourkova 2002). "Feminism" became a dirty word, as the wave of anti-feminism and re-masculinisation of the public sphere took place in almost each of these countries (Watson 1993) together with state withdrawal from welfare policies' organisation and financing. However, several of them still aspired to EU membership, the countries modernised their family policies by opening them to men or incorporating the EU anti-discrimination legislation into their national labour codes. And yet, changing legislation rarely meant change in real terms. Reports showed discrimination in the workplace based on gender and semi-legal practices of dismissing mothers after they come back from maternity and childcare leave (Centrum Badania Opinii Społecznej 2013). Poland remains a laggard

when it comes to provision of childcare services. In Poland, especially in the 1990s and early 2000s, family was to remain a part of the private sphere, while the state should only intervene in cases of poverty and only when it comes to education, not for providing formal care.

However, after almost two decades of neglect in the field of family policy, several recent reforms might indicate a change in the Polish family policy model. First, the issue of family formation and procreation decisions became a public issue due to a steep decline in the number of births accompanied by an uninterrupted process of migration to the countries of Western Europe and, hence, an outflow of working-age population. Second, as Poland went quite smoothly through the economic crisis, the structural conditions and state capacity improved for investing more funds in family policy. The goal of this chapter is to present the reforms of family policies in Poland and to assess analytically their direction and possible gendered effects. In particular, I will focus on three policy fields: parental leave reforms, childcare services and support in cash including child allowances and tax policies (tax credits). My main argument is that the reforms of family policies extending financial family support between 2005 and 2016 represent a transformative change of the policy model from implicit to explicit familialism, as the increase in monetary support is accompanied by only a weak development of care services. Although Poland went through the economic crisis in good shape, the country did not invest so much in care services, but rather in financial support for families, with stronger maternalist direction in public discourse on childbearing.

At the beginning, I will present the framework for analysis, that is, “varieties of familialism”, which would represent a point of departure for the comparative case study in which I compare the evolution of policy instruments within three periods. I focus briefly on family policy reforms during the 1990s, when the model of implicit familialism was strengthened. This is followed by a more developed section on the period from 2005 to 2015, when family policy was brought to mainstream public policy discourse, also marked by some important reforms strengthening cash support for families. The final third part describes the recent reforms of the Law and Justice (“Prawo i Sprawiedliwość” – PiS), a right-wing conservative political party that won parliamentary elections in October 2015, but has already made several changes in family policies, including the introduction of the programme of universal child allowances, which represented, in my view, the biggest step for transforming Polish family policy model from implicit to explicit familialism.

## 2 VARIETIES OF FAMILIALISM AND THE FRAMEWORK FOR ANALYSIS

Conceptualising family policies through gender lens has become a part of the “modelling business” in comparative welfare state research that flourished after Esping-Andersen’s (1990) *Three Worlds of Welfare Capitalism* that omitted the role of family in welfare provision and ignored gender dimension of welfare regimes. Since then, many works have focused on distinguishing between different breadwinner models (Lewis 1992; Sainsbury 2001). Feminist debates further contested the typologies by developing the “one-and-a-half-earner” (Morgan and Zippel 2003) or “two-x-three-quarter” model (Pascall and Lewis 2004). Concepts such as de-familialisation and familialism have furthermore been developed by feminist academics in order to characterise recent reforms in childcare policies in Europe (Szelewa 2014). Rianne Mahon (2002) identified a “new familialism” with regard to the institutional evolution of family policies in France and Finland. As the author suggests, the governments in these two countries tend to give “more choice” or “the rights to care”, which gives less priority to publicly provided childcare services as the focus of care provision.

As Lynne Haney (2003) or Sigrid Leitner (2003) show, however, de-/familialism is not a bipolar dimension, but one can talk about different faces or varieties of familialism, mostly depending on the *degree* and *kind* of state activity. In other words, different kinds of familialistic (or de-familialising) policies can be distinguished with regard to the answer to the following questions: *how much* family support is provided through the state, and then what *kind* of support is this? Therefore, de-familialisation and familialism are not just two sides of the same coin.

Sigrid Leitner (2003) differentiates between four types of policy mixes based on the combination of familialistic and de-familialising elements in the policy (see also Leitner in this volume). The framework has already been applied to the studies of family and childcare in the CEE region (Saxonberg and Sirovátka 2006; Szelewa and Polakowski 2008; Szikra and Szelewa 2010). Out of the four regimes, the first is “implicit familialism”, where the state does not provide any significant support for families in their tasks of providing care. As women are still perceived as the primary carers, implicit familialism firmly places the burden of care on women. The second, “explicit” type of familialism is a “richer” version of the previous one, as here the state pays for homecare. In this combination of

policies, the state provides payments for longer periods of parental leave, but refrains from supporting families through the provision of care services. Women are also perceived through their role as carers—there are incentives for exercising the task of care at home, and even when maternity leave is over, families are supported for a long time. The situation, where parents have the choice of using public care services and/or generous payments for home-based care is found in the third type of familialism—“optional” familialism. The periods of leave are longer, and there are more ways, in which leaves can be used. There is the alternative option of using day care services, which are more affordable due to state support. Finally, the other pole is “de-familialisation”, where the element of payments for family-delivered care is weaker and families are encouraged to use public care services rather than staying at home with the family member requiring care. In this last regime, the responsibility for care is thus shifted away from the family. The periods of leave are shorter and the overall incentive structure mobilizes female labour force. Most importantly, extensive childcare services are provided and are of good quality (e.g. fewer children per group). An important element of the system is also individual taxation, and special incentives to encourage fathers to share leave.

More recently, referring to Lewis (2001), Mary Daly (2011) based her classification of policy instruments on the notion of “individualisation” in order to distinguish them from “familialising” tendencies in reforms of social policy in Europe. Steven Saxonberg (2013) suggests replacing the concept of “defamilialisation” with “degenderisation”—in line with the recent tendencies in research to focus not only on reconciliation measures like childcare services provision, but also on the policy tools aimed at changing the attitudes of men. Thus, a degenderised version of policies would include generous parental leave with a strong obligation element for fathers (“use it or lose it” schemes). This way, the policies have a double effect: recognition of the (monetary) value of carework and degenderisation of care work and domestic work.

This article traces the developments in family policy in Poland using the framework of “varieties of familialism” and focusing on the dimensions for comparison that represent the above-mentioned various combinations of cash- or service-oriented policy tools (see Table 7.1). Importantly, the analytical framework does not copy the selection of indicators once proposed by Leitner, but is based on the studies that re-interpreted the original framework (Szelewa and Polakowski 2008; Saxonberg 2013; Javornik 2014).

**Table 7.1** Framework for analysis: dimensions of variation and indicators

<i>Dimensions for analysis</i>	<i>Implicit familialism</i>	<i>Explicit familialism</i>	<i>Individualisation/de-familialisation</i>	<i>Optional familialism</i>
<i>Family leave and cash support</i>				
Family-related leave and benefits (duration, generosity of payments) whether there are special incentives for fathers.	Short duration of the leave, basic or no payment, family-based entitlements, weak or no incentives for fathers to take the leave.	Long duration of the leave, generous payments for the first part of the leave, and then flat-rate allowances. Family-based entitlements, weak or no incentives for fathers to take the leave.	Short to medium duration of the leave with medium to generous payments. Individual and non-transferrable entitlements plus other special incentives for the fathers.	Medium to long duration of the leave, generous payments. Individual and non-transferrable entitlements plus other special incentives for the fathers.
Child/family allowances/tax credits for children	Income-tested, low-level child/family allowances prevailing.	Universal, medium to high level child/family allowance	Universal, low to medium level child allowances.	Universal, medium to high level child allowances.
<i>Care services</i>				
Availability and affordability of good quality care and early childhood education	Low state support for care services, organised (or paid) mostly by the family. Low enrolment rates.	Low state support for care services, organised (or paid) mostly by the family. Low enrolment rates	High state support for good quality affordable care centres. High enrolment rates, individual entitlements for children.	High state support for good quality affordable care centres. High enrolment rates, individual entitlements for children.
<i>Other</i>				
Taxation (individual/joint)	Joint taxation	Joint taxation	Individual taxation	Individual taxation

*Source:* Author's own compilation based on Leitner 2003, Szelewa and Polakowski 2008, Daly 2011 and Saxonberg 2013

### 3 EMPIRICAL PART: THREE PHASES OF FAMILY POLICY EVOLUTION IN POLAND

The empirical part is organised around three periods of family policy evolution, taking into account the developments with regard to the policy tools listed in Table 7.1. The first phase starts with the immediate changes after 1989. The second phase begins with 2005, when the conservative government took over the office. I am naming 2015 as the transition year for the third evolution phase, as the biggest ever reform in family policy started to be implemented together with the right-wing party winning parliamentary and presidential election in 2015.

#### 3.1 *Phase 1: Re-Familialisation and Strengthening of Implicit Familialism (1989–2005)*

The first post-1989 governments in Poland (also called post-Solidarity governments, as formed by the parties that were established based on the Solidarity movement) pursued the policies of state withdrawal from providing family support. Even though the childcare policies were already underdeveloped, they were further retrenched during the period of transition to market economy (Szelewa 2014). The most remarkable changes for the functioning of childcare services also came after 1989, and were connected with decentralisation of financial responsibility over day care centres. The latter was delegated to local authorities. Because this resulted in the direct state subsidies being cut, it meant liquidation for many of the centres if their economic calculation showed deficits. As a result, the centres had to raise the fees of their services, but even then the payments covered only one third of their expenses and the rest had to be covered by the local authorities. Higher fees discouraged many families from deciding to place their children in the centres. The monthly costs of childcare centres for one child could be up to a third (sometimes even half) of an average salary (Heinen 2002). Then, almost all crèches and two thirds of the company-owned kindergartens were closed. The sharpest decline in the crèche attendance was directly connected with that fact. While in the 1980s, every twentieth child under three attended the crèches, in the 1990s it was every fiftieth. The number of centres continues to decline: crèches from 1553 in 1989, to 818 in 1992 and 396 in 2001.

With regard to support in cash, important changes limiting family support also took place. The Polish system of family-related leaves was

inherited from the previous, state-socialist period. Thus, each working mother had the right to 16 weeks of fully paid maternity leave (longer when having the second or the third child). Further, childcare leave was available for three years, but no longer than the child's fourth birthday; however, it was paid only for those meeting income criteria (allowance introduced in 1981). There was no scheme of universal payments programme for non-working mothers, even during state-socialist period.

The post-Solidarity governments were followed by a social-democratic and rural coalition that was in office between 1993 and 1997: the *Sojusz Lewicy Demokratycznej* (SLD, Alliance of Democratic Left) was in a coalition with the Polish Farmers' Party (PSL), which is more conservative in the attitudes towards family and gender. The biggest change with regard to cash benefits took place during this coalition's term in office and concerned the system of family allowances. The system comprised the regular allowances paid for each child, as well as additional allowances for lone parents and payments for parents using the childcare leave. In 1995, the access to these allowances became restricted by income-testing (Kłos and Szymańczak 1997). Entitlement to this policy measure was limited to families with a per-capita income not exceeding 20 % of gross average wage. Furthermore, the age limit was shortened from 20 to 25 years of the child's age.

One of the most important attempts to reform the system concerned the length of maternity leave during the centre-right coalition that took over the office after the 1997 elections (*Akcja Wyborcza Solidarność*, AWS: Solidarity Election Action together with the Union of Freedom). As the AWS had more offices in the cabinet, the party's conservative attitudes were influencing the policy agenda. This time, the declarations considering traditional visions of the family were written in the "State's pro-family policy" programme accepted in 1999. The goal articulated in the programme was "changing procreation attitudes in the direction of increasing fertility, among others, through supporting women in mixing their maternal and professional responsibilities [that is, labour market participation]" (Council of Ministers 1999). The government documents took over the most important points of Catholic social thought. The principle of subsidiarity in the state's special attitude towards the family was included in the programme.

Hence, for the first time the issue of family policies were brought to the centre of policy agenda, which also involved changes in policies. Thus, in 1999, the Parliament amended regulations concerning maternity leave



by extending its duration to 26 weeks for every birth with one child, and 39 weeks in the case of giving birth to more than one child, to be introduced gradually. In spite of these improvements, the conservatives lost power in 2001. The coalition SLD-UP (UP: Union for Labour) again took over rule together with the PSL. During this second period of the SLD prime minister's term in office, the government further reduced family benefits and turned back the maternity leave's duration to 16 weeks.

To sum up, during the first one and a half decades after the collapse of state-socialism, the policies that were already weakly developed compared to other countries in the region became even more retrenched by the state's withdrawal from supporting childcare services financially. This included the access to child allowances being restricted by the introduction of the principle of income-testing. The austerity-driven privatisation of care was strengthened by the conservative views towards gender roles. The lack of support in cash, low level of allowances, the prevalence of the principle of income-testing, as well as disappearing childcare services for children under three years of age located Poland at the end of each ranks of family support in Europe. The only attempt to form a programme for an explicit state support for the family was undertaken by the centre-right government between 1997 and 2001; however, changes extending maternity leave were reversed. In the end, the main responsibility for performing and financing the task of care lay almost solely with the family, followed by the discourse of not intervening in family issues. The version of familialism in Poland until the late 2000s was definitely an implicit familialism.

### *3.2 Phase 2: Transition Period Towards Explicit Familialism (2005–2015)*

The next decade of family policy development was marked by the debates on falling fertility rates. Although fertility rate was already dropping dramatically in the 1990s (from 2.05 in 1990 to 1.37 in 1999), only the conservative government between 1997 and 2001 tried to discuss new pro-natalist measures. However, at the beginning of the 2000s, fertility continued to decrease and reached its lowest point in 2003, when the indicator equalled 1.21. The social-democratic government (2001–2004), despite seeing this problem, seemed to focus more on the final stage of the EU accession, which involved adopting the EU legislation and reforming public finances in line with the convergence criteria.

Once again, it was the conservative coalition that came to power in 2005 which seriously raised the issue of fertility and family policy. The party of the Kaczynski brothers—Law and Justice (PiS)—formed the new government with the *Samobrona* (Self-Defence Party) and the far-right League of Polish Families (LPR). Though the party led by the twin brothers was expressing rather conservative attitudes towards the role of family and gender roles within family, it was also supporting female employment with the EU structural funds and separating itself from the liberal hegemony of the previous governments.

Firstly, the coalition undertook the initiative to extend maternity leave in 2006. It was extended by two more weeks for women having the first and the second child (in the new version—18 and 20 weeks, respectively), and with 28 weeks of the leave in the case of multiple births. Apart from extending maternity leave, the government introduced a universal birth grant in 2006—*becikowe* (another kind of one-time birth allowance). Each family having a new child became eligible for this kind of grant (1000 Polish zloty (PLN) = 43 % of the average wage at that time), and additionally parents that met the income criteria could receive another, already existing, birth grant (though increased from 500 PLN to 1000 PLN). Furthermore, the new kind of family support was made available by the government just at the end of its term in office, which were the tax credits. From the beginning of 2007, all tax-payers having children could deduct from their tax 1145 PLN (almost 50 % of the gross average wage) per each child. Though the rhetoric that was used by the reformers was mainly of a pro-natalist character, the ultimate result was the biggest increase in the overall family support that has taken place since the beginning of transformation.

The main opponent of the PiS, the Civic Platform (PO), was staying in opposition until winning the early elections in the fall of 2007. The PO formed a coalition with PSL and is regarded as a centre-right party with liberal attitudes towards the economy and social policies in particular. At the same time, though, the government was continuing the policy direction undertaken by their predecessors. Firstly, *basic* duration of maternity leave was further extended to 20 weeks, and in 2010 six weeks of *additional* period of maternity leave was introduced. Gradually extended, the additional maternity leave combined with the basic maternity leave altogether represented 26 weeks of maternity leave in 2014. In the end, the PO–PSL coalition managed to reach the duration of maternity leave as initially proposed and unsuccessfully introduced by the AWS government in 1999.

Other options for family-related leave were opened. Fathers are also eligible for taking a break from employment for the duration of two weeks and the leave must be used within the period of 12 months after child-birth (further extended to two years). The right to use paternity leave is fathers' own individual and non-transferrable entitlement. Conditions for eligibility are the same as in the case of maternity leave, and the level of paternity leave benefit amounts to a 100 % wage replacement. The leave was introduced in 2010, first, as a one-week leave that was extended to two weeks in 2012. Among others, adoption of the leave followed a media campaign about the need to support father's role in childbearing, mainly supported by *Gazeta Wyborcza*, a major daily newspaper. Apart from that, the introduction of the leave did not attract major public attention and there was a political compromise among the coalition partners to support such solution.

And yet, the most significant change in parental leave arrangements took place in 2013, when the PO-PLS government introduced 26 weeks of parental leave. The main argument in favour of the new scheme was that it was necessary for boosting fertility. The new scheme, together with the two maternity leave schemes (the basic one and the additional scheme), were publicly labelled and discussed and used as "one year of maternity leave" (at that time  $20 + 6 + 26 = 52$  weeks). All employees eligible for maternity or paternity leave are also entitled to six months of parental leave that is open for both parents. The government did not reserve time only for fathers: thus, there is no individual and non-transferable entitlement for fathers. The level of parental leave benefit is 60 % of the previous wage. The leave can be used in three parts, each lasting a maximum of eight weeks and the parents may share the leave—in this case, each parent is entitled to a maximum of 13 weeks of the leave. While justifying the final version of the reform, the government, and especially the Minister of Labour, explained that it was more important to let the parents decide and "not to intervene in family issues" (Ministry of Labour 2013). Importantly, since 2016 the leave was extended from 26 to 32 weeks: it was the result of reform of 2015 that liquidated six weeks of additional maternity leave and transferred those six weeks on top of the parental leave's original duration. The leave is extended to 34 weeks in case of multiple births.

Other changes include the extension of the entitlement to the parents employed on some civil law contracts and the self-employed if they take care of the child personally (before 1 October 2013, this leave was granted to those employed on contracts provided by the Labour Code) and the

introduction of one individual and non-transferrable month in the context of the “old” childcare leave. The latter change was introduced in order to comply with the Parental Leave Directive; it should be noted, though, that no payment was attached to this new entitlement. So far, there is no information on the use of the childcare leave by fathers after the new provision was adopted. However, the previous reports inform that the use of this scheme by the fathers stood at the level of 3 % of all fathers (Matysiak 2007), and more recent reports show an even smaller figure—around 1.2 % (GUS 2014). Table 7.2 summarises the legislative changes in the system of parental leaves in Poland between 2008 and 2013.

The biggest change with regard to childcare services for children under the age of three was a new law adopted in February 2011. This law established the forms of childcare centres for children under three: crèches, “children’s clubs”, “daily carers”, or “nannies”. While “children’s clubs” were designed as mini-crèches (with smaller numbers of children and

**Table 7.2** Main features and legislative changes in the system of parental leaves in Poland between 2008 and 2016

<i>Scheme</i>	<i>Main features</i>	<i>Main changes 2008–2016</i>
Maternity leave	<b>20 weeks</b> plus <b>six weeks</b> of additional leave (insurance-based, fully paid).	Six weeks of <i>additional leave</i> was introduced gradually: 2010: two weeks 2012: extended to four weeks 2014: extended to six weeks 2015: additional leave is deleted and included in parental leave that is now 32 weeks (see below).
Paternity leave	<b>Two weeks</b> of the leave (insurance-based, fully paid)	One week of paternity leave was introduced in 2010, extended to two weeks in 2012.
Parental leave	<b>32 weeks</b> , paid at the level of 60 % of the previous earnings.	It is a new scheme introduced in 2013. No special entitlements for the fathers. Original duration of 26 weeks extended to 32 weeks in 2016 (replaced 6 weeks of additional maternity leave).
Childcare leave	36 months, paid for 24 months for those who meet income test.	No major changes. In 2013: one out of 36 months of the leave as an individual entitlement (unpaid).

*Source:* Author’s own compilation

less strict requirements with regard to the infrastructure), “daily carers” are child minders that work individually and usually at (their) homes. Furthermore, if parents want to employ a “nanny”, once this is registered with the municipality, social security costs of employing this person are covered by the state. The regulation does not guarantee any permanent financial state support. Instead, the Ministry established the Programme *Maluch* (Toddler). The programme provides the municipalities, which would like to establish a new childcare centre, the opportunity to apply for financial support from state funds. The first results of this programme were disappointing. Therefore, the government increased the level of co-financing to 80 % of the costs of starting the centre and devoted 100 million PLN for financing the programme in 2013. The effects of the programme are still quite limited. Altogether though, more than 2000 new childcare centres for children under the age of three have been established since the beginning of the programme (see Table 7.3).

It might seem like the new law and the governmental programme indeed contributed to the increase in availability of childcare services for children under the age of three. Nevertheless, when analysing the details of the implementation process, the reform seems much less successful. Firstly, the enrolment rate at the level of 7.1 % still represents one of the lowest figures in comparison to other countries within the EU. Secondly,

**Table 7.3** Changes in the availability of childcare services 2010, 2011, 2014

Year	2010		2011		2015 <sup>a</sup>			
	Crèches	Crèches	Children's clubs	Total	Crèches	Children's clubs	Daily carers <sup>b</sup>	Total
Number of crèches/ childcare centres	511	523	48	571	1.767	407	531	2.705
Places in crèches (in thousands)	32.50	31.9	0.29	32.19	68.92	6.37	0.70	75.99
% of children enrolled in crèches as the percentage of all children under 3	2.5 %	3.1 %			7.1 %			

Sources: for 2010—Statistical Yearbook of Poland 2011, for 2011 and 2015: data provided by the Ministry of Labour and Social Policy

<sup>a</sup>Data for June 2015

<sup>b</sup>Daily carers were not present in the statistical report of the Ministry of Labour for 2011

the progress is very slow, as the increase by one percentage point per year means that it would take almost three decades to reach the Barcelona target of 33 % of children under the age of three enrolled in formal childcare. Thirdly, there are significant regional disparities in the provision of childcare services (Szelewa 2014).

The most important feature of the government programme is that there is still no stable financing from the central budget. The funding is available only on the basis of a successful application for co-financing. This means that the applying entity (private or public) needs to provide its own funds in the first place (50 % up until 2013, and 20 % since then). Thus, the new childcare centres emerge only if there is a will and financial capacity to establish and to maintain them. In practice, this leads to the concentration of crèches and the children's clubs in big cities, in municipalities that have a better financial situation and where conservative views do not prevail among the policy makers. The result is that 80 % of all municipalities still do not provide any form of care services for children under the age of three. Only 9 % of rural municipalities have any form of institutionalised childcare as compared to 66 % of the urban municipalities (MB 2014).

One of the goals of the reform was to widen the scope of existing childcare institutions, hence the introduction of new institutional forms like "children's clubs" or "daily carers". However, the indirect effect of this reform is marketisation of childcare institution. Thus, as both public and private entities receive the funding, for the first time the prevalence of private childcare centres for children under the age of three was noted in 2013, when non-public childcare centres represented 63 % of all the institutions. The new figures for 2014 represent a considerable increase: among all crèches, 71 % are run by non-public entities, while the same stands for 83 % of all children's clubs. Therefore, one of the clear results of the new programmes supporting the development of formal care is the marketisation of these services. At the same time, the existence of these newly established childcare centres is already threatened, when the programmes of co-financing, especially the funding coming from the EU structural funds phases out (Ahrendt, Blum, and Crepaldi 2016). There are at least three possible scenarios here. First, the new centres might decide to close, which would hamper the overall availability, especially in the areas with shifting demographic processes (like small towns and villages). Second, faced with the lack of additional funding, the centres might decide to increase the prices of their services (costs carried by the parents). The danger appears that only the parents that are "better-off" are able to afford these services.

Third, the quality of childcare services might be seriously threatened, as those centres that would like to survive would need to adjust the level of services to their new financial situation. To sum up, the high costs might represent a critical barrier for many women returning to work after maternity or parental leave. This may result in the further discrimination of mothers on the labour markets and gender pay gaps. In other words, while the government shows signs of recognising the problem of the shortage of childcare centres, the ultimate result of the policy practice does not match the expectations due to the perceived lack of funding.

The last reforms conducted by the PO–PSL government took place in 2015, therefore just at the time of both presidential and parliamentary elections. Most importantly, the government introduced a new scheme for the parents of newborn children, who are uninsured and for this reason, not entitled to maternity and parental leave benefits. The new policy is addressed to unemployed persons, students, farmers and persons employed on the basis of civil code contracts. Each mother of a newborn child would be entitled to a monthly allowance of 1000 PLN (about €245) for 12 months. The allowance will be a part of the system of family allowances, although no additional conditions would have to be met in order to be eligible for the payment (so no income-test, as in the case of almost all family allowances). There is only one allowance per child, so even if the draft law does not explicitly address the new measure to mothers (but: to parents, as such), the intention is to provide support that would be parallel to maternity leave followed by parental leave, that is “one year of maternity benefit”. The scheme came into force as of January 2016.

Last but not least, tax credits for families with children were further increased. While counted each month, families with at least three children are allowed for an increased tax credit for a third child (166 PLN per month, 2000,04 PLN per year), while families with four children are allowed for the highest tax credit (225 PLN per month, 2700,04 PLN per year) for the fourth (and each subsequent) child. The modification should be interpreted as strengthening the role of a formal family, as well as a greater emphasis on the pro-natalist social policy in the form of re-familialisation.

To sum up, the period between 2005 and 2015 I would call transitional from implicit to explicit familialism. First, the support in cash was remarkably strengthened: extended maternity leave and a new parental leave scheme, with benefits and tax credits enhanced. Second, although alternative policies were being developed, they did not critically change

the policy direction. Even though the availability of care services has increased, Poland still lags behind the great majority of the EU member states. Moreover, adopting a new parental leave scheme without reserving quota for the fathers proved that the government directs the new policy measure to the family as such and does not intend to provide an individual entitlement. The two weeks of paternity leave might signal that there is still an option for the fathers, but this is only a tiny fraction of all family-related leaves that are now available (in reality) to mothers, apart from one of 36 months of unpaid childcare leave. Explicit familialism was also present in the public debate on family issues and the demographic downfall: the President, as well as the Ministry of Labour were often using references to the sustainability of the nation-state faced with demographic downfall. However, it would only be the next, right-wing populist government that completed the eventual transformation of Polish familialism from implicit to explicit.

### 3.3 *Phase 3: From 2015: The Ministry of Family and 500+: Fast-Forward to Explicit Familialism*

The presidential elections in May 2015, as well as parliamentary elections in October that same year radically changed the political scene in Poland, and, most importantly, lead to a shift in political composition of the government. After eight years of holding the office, the main coalition party, the Civic Platform, lost the election to Law and Justice forming election coalition with other right-wing parties. The United Right's result (almost 40% of the vote) was so high that the coalition has now majority of the votes in the Parliament and they did not need any further allies to form the government. For the first time, there is no left-wing or social-democratic party in the Parliament, as the left-wing coalition did not receive 8 % of the votes, which is the threshold in Poland for political coalitions to enter the Parliament.

The new government's flagship reform, labelled "500+", was initially planned as providing each child under 18 years of age with the allowance of 500 PLN (about €120) per month. Eventually, though, families with only one child were excluded from the programme, apart from those who met income criteria (800 PLN per month per family member). The government's main goal is to boost demography, but also to compensate for the cost of having a child, especially to large families that have so far been especially in a vulnerable income situation. The new "Law on child



raising” was adopted on 11 February 2016 and was implemented since 1 April 2016.

The introduction of such social policy in Poland is unprecedented. The annual average cost of the programme is 22 billion of PLN per year (about €5.54 billion), and 2.7 million families should benefit from the allowance, which represents about a half of all families in Poland. Just to compare, the government’s direct co-funding of new and existing childcare places for children under three is 100–150 million PLN per year (about €23.8 million). This has been by far the most expensive social policy programme ever in Poland, including the period of state-socialism (if comparable). As communicated by the Minister of Family, Labour and Social Policy (the word “family” was added to the ministry’s label), Elzbieta Rafalska, the main goal of this new allowance is to compensate the parents for the cost of childbearing, but the whole programme’s major aim is to encourage childbearing and, hence, the demographic growth.

The Minister was criticised by the opposition parties during the plenary session of the *Sejm* (lower chamber of the Parliament), when the draft law was under discussion, that it does not cover all children. The result, for example, is that lone mothers with one child who earn a bit more than the minimal wage (1850 PLN gross) would not be entitled to this kind of allowance. Thus, as the arguments against the new programme suggested, some children are treated unequally and might suffer from the lack of sufficient financial support. However, the Minister’s reply fully exposed the familialistic nature of such policy tool. As pointed out by Rafalska “this is an allowance [ ... ] *for the family, not for the child* [ ... ]. Family is the sole recipient of this allowance that provides a considerable state’s contribution to childbearing” (Rafalska 2016; author’s emphasis).

The bill successfully went through the Parliament and was signed by the President on 17 February 2016. Although that was only the third month of the new government’s term in office, the most important electoral promise (to introduce the 500+ programme) was already implemented in the form of a new policy measure. It is expected that the programme is much welcomed by many of the Polish families that were so far not eligible for any state support and that should, according to the government, strengthen family’s economic independence and, therefore, make the couples consider having more children. At the same time, the Ministry of Family plans to continue the programmes of co-financing places in formal care for children under three, though there are no signs that the government would react to insufficient number of places available in childcare

centres and the persisting deficiency of quality care in small cities and in rural areas. In fact, the Ministry is most often referring to the conservative think tank *Ordo Iuris*'s expertise quoting studies on bad effects of childcare facilities on children under the age of three (*Ordo Iuris* 2015).

It is not clear what kind of reforms would further support this familialistic vision of the government, but other changes also signal a shift towards an explicitly conservative public discourse on gender roles and the primary role of the family. Although I did not include the development of early education policies in this analysis (children at the age of three to five), it must be briefly mentioned that the incumbent government has reversed the reform to decrease the education age from seven to six, as well as withdraw the obligation for each child at the age of five to complete a preparatory year at a preschool facility. Both of these reforms were conducted under the slogans of giving the parents the right to choose, whether they want to send their children to school earlier, or whether they are willing to use kindergarten or other forms early education (if any at all). Parents' autonomy and family-based entitlements are expected to continue to inspire family policy in Poland within the next few years.

#### 4 CONCLUSIONS

The goal of this chapter was to trace the evolution of Polish family policies after 1989. In order to grasp analytically the most important developments, I selected the framework "varieties of familialism" arguing that we can observe a shift from implicit to explicit version of familialism (see Table 7.4 as based on the dimensions for analysis from Table 7.1).

In order to trace the evolution and the direction of policies, I differentiated between three basic phases of family policy evolution. Thus, the first phase that marked the period between 1989 and mid-2000s was characterised by the process of privatisation of care, as well as state withdrawal from organising and financing care services. Another important feature of family policies during that period was limiting cash support to poorest families and a general tendency of the entitlements to shrink. As the issue of family was removed from the public debates and the state provided only limited support, implicitly, the responsibility for funding and/or organising care was family's business, and hence, the burden was placed on women. Initially, neither left-wing nor post-Solidarity government were

**Table 7.4** Transition from implicit to explicit familialism—family policy dimensions

<i>Dimensions for analysis</i>	<i>Implicit familialism (pre-1989–2005)</i>	<i>Transition to explicit familialism (2005–2016)</i>
<i>Family leave and cash support</i>		
1. Family-related leaves and benefits (duration, generosity of payments) incentives for fathers	16 weeks of paid maternity leave, unpaid childcare leave, no special incentives for fathers	Maternity leave extended to 20 weeks New scheme: paid parental leave (26 weeks, now 32 weeks), with family-based entitlement (no father's quota) New scheme: 12 months of allowance for uninsured parents of a newborn child Paternity leave (2 weeks, paid) plus one out of 36 months of unpaid childcare leave as reserved for fathers
2. Child/family allowances/tax credits for children	Income-tested (1995), small payments	Introduction of tax credits Introduction of universal child allowance 500+ for each second child within the family or for each child in families with income not exceeding 800 PLN per family member, per month
<i>Care services</i>		
Availability and affordability of good quality care and early education	Low state support for care services, organised (or paid) mostly by the family. Enrolment rates about 3–4 %	Low state support for care services, organised (or paid) mostly by the family. Low enrolment rates, although thanks to a new programme of co-financing new childcare centres the enrolment increased to 7 %
<i>Other</i>		
Taxation (individual/joint)	Joint taxation	Joint taxation

interested in bringing the issue of family policy on the agenda. It was only the right-wing, conservative coalition in office between 1997 and 2001, that tried to present a coherent vision of pro-natalist and familialistic policies, with a concrete attempt to increase the duration of maternity leave, the reform withdrawn by the consecutive, left-wing government.

The second phase, between implicit and explicit familialism (2005–2015), shows that family policy became important on the policy agenda and that many important reforms were conducted. Firstly, the right-wing PiS-led government came back to the idea of extending maternity leave, as well as enhanced support in cash and tax credits for parents with children. This same policy direction was continued by the next coalition formed by the PO and PSL that lasted until 2015. Second, the new parental leave scheme was established: 26 weeks of parental leave in 2013 that considerably contributes to family support during the first year after childbirth and the corresponding one year of parental allowance for parents who are not insured. Third, the father's entitlements were extended, when two weeks of paternity leave were introduced, and one month of the childcare leave was reserved as individual and non-transferable entitlement for each parent. This was, however, a more symbolic than real entitlement, as the new scheme of paid parental leave did not reserve time for fathers. Finally, the system of childcare services was strengthened by providing a special legal framework and a programme of financial support for creating new places in childcare centres, which, however, did not mean a stable support and did not involve a rights-based approach to childcare services. As tax credits were further developed, the amount of cash support definitely started to prevail in the mix of family policy measures.

But the most important transformative reform was the recent adoption of the new programme of universal child allowance of 500 PLN per child, beginning with the second child in the family, or the first one with regard to low-income families. Not only does the familialistic rhetoric dominate the policy agenda, but also now the postulates to strengthen the public support for family has been turned into concrete policy steps. As a result, family policy reforms in Poland move the country away from optional familialism or individualisation trends, while the government's further plan is to support those women who prefer to perform care at home. In a larger picture, such policies, while winning the public support in the future elections, might put female economic autonomy in Poland in question for years to come.

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# Social Investment or Gender Equality? Aims, Instruments, and Outcomes of Parental Leave Regulations in Germany and Sweden

*Diana Auth and Hanne Martinek*

## I INTRODUCTION

Since the 1990s, investive social policy became one of the guiding principles of the “new welfare state” (Giddens 1998; Esping-Andersen 2002; Morel et al. 2011). The perspective of an investive social policy is future-orientated: welfare state investment is necessary to develop future human capital in order to survive and succeed within the global economic arena. Objectives of such a welfare policy strategy are higher fertility rates, an improved use of the human capital of women/mothers, an increased early childhood education and a more qualified labour force. From a gender perspective, this social policy shift goes along with increased gender awareness. Feminists, however, criticize the investive approach for being

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“too instrumental” and “too uni-dimensional” by focusing mainly on female employment and reconciliation of work and family (Saraceno 2015, 265; Jenson 2009).

Within social investment policies, parental leave regulations are crucial (Morel et al. 2011). In this article, parental leave reforms in Germany and Sweden will be scrutinized through the lens of this social policy shift. We have chosen two countries which have recently reformed their parental leave schemes for our comparison. While Germany is the prototype of a conservative welfare state with a (modernized) male breadwinner model, Sweden belongs to the social democratic “northern” welfare states with a two-earner/carer model (Esping-Andersen 1990; Misra et al. 2007). In 2007, a major parental benefit reform was enforced in Germany—along the lines of the Swedish parental insurance. The Swedish parental leave system is much older, but has been reformed in 2002 and thereafter. We will analyse if these recent reforms in Germany and Sweden were shaped by the social investment paradigm and/or by the gender equality paradigm and if the two countries are converging or diverging in relation to *aims, policy instruments* and *outcomes regarding the paid parental leave schemes*. As the Swedish parental insurance was originally introduced with a strong aim towards increasing gender equality, and as equality between men and women has long been an integral goal of the Swedish welfare state (SOU 2005:73 107–118; Kolbe 2002; Misra et al. 2007; Näsman 1994), we expect the Swedish reform to be clearly guided by the gender equality paradigm. In contrast to the Swedish welfare state, the German welfare state has long been characterized as rather working *against* than *for* gender equality (Berghahn et al. 2007; Larsen 2005; Lewis and Ostner 1994; Pinl 2003; Bussemaker and Van Kersbergen 1999). As the new parental benefit was introduced in the context of demographic change, we expect the German reforms to follow a social investment paradigm more strictly.

We start in Sect. 2 with a presentation of the social investment paradigm and the gender equality paradigm regarding their overlapping areas and their differences. In the empirical part of our article (Sect. 3), we compare the aims, instruments and outcomes of the Swedish and the German paid parental leave reforms, introduced since the turn of the millennium, on the basis of the analytical framework we have developed. As a result, we can show how the reforms in the two countries fit into the two different paradigms. In our concluding remarks (Sect. 4), we interpret the empirical findings with regard to national social policy traditions and trajectories.

## 2 SOCIAL INVESTMENT AND GENDER EQUALITY: THEORETICAL AND ANALYTICAL CONSIDERATIONS

Before discussing similarities and differences between the social investment and the gender equality paradigms, the concept of “paradigm” has to be explained in more detail. We build our understanding of the term “paradigm” on Hall’s definition of the concept. He includes in a paradigm the understanding of a problem, the aims that are followed to solve it, and the policy instruments that are used to achieve the presented aims (Hall 1993, 279). It should be noted though that Hall emphasizes the extent to which such a paradigm, its problem definition and given solutions are taken for granted. In our analysis, we rather emphasize the characteristic that a paradigm presents a coherent view of a problem and possible solutions according to its inherent logic. If the actors who work in line with the paradigm in question are aware of it or not, is not at the core of our analysis. We seek instead to analyse which of these partly overlapping and partly competing paradigms (social investment and gender equality) has a stronger influence in recent reforms of the parental leave benefits in Germany and Sweden.

### 2.1 *Social Investment and Gender Equality: Overlapping but Still Different Paradigms*

The social investment paradigm has many times been described as a successor of an era of welfare state retrenchment based on neoliberal ideas. While the latter one mainly implied benefit cutbacks and a shift of responsibilities from the state to individuals, families or the third sector, the social investment perspective implies not mainly the demand for *less*, but rather *different* state involvement (see, e.g. Morel et al. 2011).

At its core, the social investment paradigm builds on employment and employability as measures against poverty. A greater share of the population should engage in the labour market and be able to adapt to its changes. The welfare state’s role is to facilitate the employability of people through the support of lifelong learning and early childhood education. A central target group for employability measures are women and especially mothers. Often well educated, they are excluded from the labour market as they are usually assigned the main responsibility in care work. Social investment policies therefore target the reconciliation of work and family. This is, for example, addressed through the expansion of childcare services (Rothgang and Preuss 2008; Evers and Heinze 2008; Taylor-Gooby 2004; Morel et al. 2011).

With regard to the enablement of women to work, the social investment paradigm and the gender equality paradigm overlap and move in the same direction. Still, the idea of gender equality contains more than just a higher grade of women's employability.

Gender equality is a very broad term and includes different aspects in different contexts. Our conceptualization of the gender equality paradigm in the welfare state context builds on Nancy Fraser's understanding of the concept. She gives an impression of the partly conflictive strategies that have to be followed by welfare states to achieve greater gender equality in her discussion of the "redistribution-recognition dilemma".

On the one hand, resources as well as paid and unpaid work have to be *redistributed* between the sexes to achieve greater equality between men and women. This refers to income, but also to leisure time and power. Viewed over the long run, this redistribution strategy should aim at "putting gender out of business" as a category that defines a person's social status.

On the other hand, women's traditional work has to be *recognized*. This claim for recognition refers to the unpaid care- and housework, but also to a higher valorization of typical female occupations. These two strategies—redistribution and recognition—pull in opposite directions as redistribution aims at making gender unnecessary as a category while recognition aims at revaluing what is perceived as typically female. Even if the simultaneous implementation of these two strategies is difficult, it is still possible according to Fraser (Fraser 1997, 11–39).

The strategies presented for achieving gender equality have different relations to the social investment paradigm. The redistribution strategy fits partly well with the idea of social investment. Female labour market participation is advocated in both approaches. If men and women have the same access to leisure time or power resources, or if unpaid work is divided unequally between the sexes, however, is not a question that is addressed by social investment aims, while it is clearly a part of the gender equality paradigm.

The recognition strategy is more clearly at odds with the social investment paradigm. Social investment values paid work higher than unpaid work and defines the latter mainly as a responsibility that has to be taken care of in a way that interferes as little as possible with a person's ability to engage in the labour market. In Fraser's perception of gender equality that we use as a basis in our analysis, however, unpaid care work is of essential societal importance. Overall, the social investment strategy does not question an androcentric world view.

## *2.2 Gender Equality, Social Investment, or Both? An Analytical Framework with Regard to Parental Leave Regulations*

To analyse if the parental leave benefit reforms are more in line with the social investment or the gender equality paradigm we need a more hands-on description of policy aims and instruments which are characteristic for those ideas (Table 8.1).

The *policy aims* of the social investment paradigm and the gender equality paradigm are, as discussed earlier, partially overlapping. Both paradigms call for a higher integration of women in the labour market—but for different reasons: the social investment paradigm bases this demand on human capital use of mothers, the aim to prevent family poverty and long dependencies on welfare benefits. The gender equality paradigm operates instead on a more general level of social justice, aiming at income equality, a more

**Table 8.1** Analytical framework for the social investment and gender equality paradigm with regard to parental leave

	<i>Social investment</i>	<i>Gender equality</i>
Policy aims	Increase of women's integration in the labour market  Reduction of family poverty and welfare dependence  Higher birth rate	Increase of women's integration in the labour market and increase of men's engagement in care work Reduction of income inequality between men and women and prevention of women's financial dependence of their male partners Recognition and valorization of care work
Policy instruments	Short parental leave with generous wage-replacement Possibility to combine parental leave with part-time work	Short parental leave with generous wage-replacement Possibility to combine parental leave with part-time work Benefits for care work even for those who have not engaged in the labour market (in line with the aim to valorize care work as such) Incitements for fathers to take care leave (e.g. through reserved months) Incentives for shared parenthood (e.g. through granting longer periods of paid parental leave if both parents work part-time simultaneously)

just distribution of paid work between the sexes and the abolition of labour market segregation. Furthermore, the social investment paradigm aims at raising birth rates, mainly to sustain the welfare state, which is under pressure as the population is aging. Such an aim is not part of the gender equality paradigm. The goal here is rather to valorize care work which is mainly executed by women and which is less valorized than engagement in the labour market.

As the aims partly overlap, *policy instruments* and parental leave benefits can be similar in view of the two paradigms. A short parental leave that allows mothers to drop out of work for only a certain period of time is in line with both paradigms. A generous wage-replacement is also supported by both approaches, but again with different intentions: it helps to prevent family poverty (social investment), and it recognizes care work and fosters women's financial independence (gender equality). Still, policy instruments, which mainly aim at valuing care work as such, are congruent with the gender equality perspective, while they do not really fit in the social investment paradigm. The social investment paradigm does not provide a critical perspective on the low valorization of care work. It simply does not address this subject. Therefore, strictly speaking, a universal payment for those on care leave is rather following the gender equality paradigm than the social investment paradigm. The gender equality paradigm calls for further measures that encourage men and women to share the care leave, like non-transferable months or incentives for shared parenting in the sense of working part-time simultaneously.

As gender equality has been an integral part of the Swedish welfare state for many decades, while only an integral part of the German one for a much shorter time, we expect the gender equality paradigm to be stronger in the Swedish welfare state with regard to *aims, instruments* and *outcomes* of recent reforms of parental leave benefits.

### 3 PARENTAL LEAVE REGULATIONS IN THE CONTEXT OF THE SOCIAL INVESTMENT AND THE GENDER EQUALITY PARADIGM

#### 3.1 *Policy Instruments*

In Sweden, the idea of the *föräldraförsäkringen* (a wage-replacing parental insurance) was already introduced in 1974. Gender equality and the right of women to work, as well as the beneficial effects of public childcare

for children were put forward by the Social Democratic Party as central reasons for introducing this measure. Back then, the leave period was 180 days and the replacement rate was 90 % of earlier income. Both the replacement rate and the length changed in several stages during the following decades. The parental insurance replaced the earlier maternity insurance which was only available for mothers (SOU 2005:73, 107–118). The insurance, thereby, represented a shift from defining parenthood as an exclusively female issue towards recognizing the fathers' role and responsibility in care work. Today, 13 months of care leave are covered by a wage-related benefit with a replacement rate of 80 % of earlier wages up to a maximum amount in Sweden.<sup>1</sup> Through this wage-replacement character, the status of carers who have taken part in the labour market is maintained. This principle applies up to a maximum amount, which is altered every year in relation to the general development of prices and incomes. In 2008, the maximum parental insurance amounted to about €1860 a month (Försäkringskassan 2010, 19). The second component of the paid parental leave, the *grundnivå*, is a universal flat-rate benefit<sup>2</sup>: Everyone on parental leave, irrespective of labour market performance or need, receives at least this amount, which is approximately €800 per month in Sweden.

During parental leave, parents are allowed to work part-time. Thereby, only the time that is actually taken as leave from work is defined as used-up parental leave time: if a parent takes a 50 % leave from work for a year, for example, he or she has not exhausted a whole year of parental leave, but half a year. Both parents can take partial leave from work simultaneously. In Sweden, three months of the parental leave are reserved for each parent. The non-transferable months were introduced one by one—the first one in 1995, the second in 2002 and the third in 2016 (Försäkringskassan 2012; ISF 2012, 20–22; Dagens Nyheter 03/11/2015). If a single parent has joint custody with the other parent of the child, the non-transferable months are still non-transferable and expire if he or she (most usually this applies to fathers) chooses to not take parental leave. This regulation is discussed as causing problems for single mothers in Sweden (SVT 29/12/2015).

As of July 2008, parents who divide their parental leave equally among themselves can receive a so-called *jämställdhetsbonus* (gender equality bonus), on top of their parental insurance. The more equally the parents share the parental leave that is not reserved for one of them, the higher the bonus they receive. It can amount to a maximum of about €1500 per child (ISF 2012, 21–22).

In Germany, the *Elterngeld* (paid parental leave or parental benefit) was introduced in 2007 (see also Leitner in this volume). Before the introduction of the parental benefit, a comparably low care allowance was in effect which was paid up to two years to parents below a certain household income. In contrast to Sweden, the shift here was from a measure that was a universal flat-rate payment aimed at preventing family poverty, to a measure that combined a wage-related component—which differs in amount according to earlier wages—and a universal flat-rate component, which is less generous than the allowance that was in effect before.

The wage-related component of the benefit is paid for up to 14 months and it is overall more complex than in Sweden. Instead of one fixed wage-replacement, the rate varies from 65 % for monthly net incomes of €1240 and higher to up to a 100 % of monthly net income of €1000 and lower. Furthermore, the paid parental leave cannot rise above €1800 in Germany—in contrast to the Swedish maximum, this amount is fixed.<sup>3</sup> In the German version of the paid parental leave, two months are non-transferable and expire if they are not taken by the mother or father, respectively. Single mothers have the right to 14 months of paid parental leave (Bundesministerium für Familien, Senioren, Frauen und Jugend 2012).

In Germany, there is also a universal flat-rate benefit of €300, which is called *Mindestelterngeld*. While the Swedish benefit is taxed, the German is tax-free<sup>4</sup> (Försäkringskassan 2011a; Bundesministerium für Familien, Senioren, Frauen und Jugend 2012; Försäkringskassan 2016).

Since the year 2015, the *Elterngeld Plus* (parental benefit plus) has been introduced in Germany. Parents who work part-time can receive half of the parental benefit up to 28 months. The regulation is now focused more on shared parenting. Therefore, a so-called *Partnerschaftsbonus* (partnership bonus) has also been introduced. Parents who work part-time simultaneously get another four months' paid parental leave (Bundesministerium für Familien, Senioren, Frauen und Jugend 2014).

To sum it up, the current design of the paid parental leave regulations in Germany and Sweden is fairly similar. In both countries, the benefit contains a wage-replacement benefit for those who were in paid work before the parental leave and a universal flat-rate component for those who are not eligible to the wage-replacement. The length of the paid

parental leave is a little more than a year in both countries. It can be received by mothers and fathers, and there are some months that are reserved for each parent which are also labelled as “fathers’ quotas” or “daddy months”. Are these similar instruments guided by the social investment paradigm, the gender equality paradigm, or both? And what about the small, but existing, differences in the Swedish and the German policy—is one principle more pronounced in one country than the other? The wage-replacing character of the parental leave benefit and the duration of just over one year fit well with the social investment and the gender equality paradigm in both countries: women are encouraged to engage in paid work before and after their parental leave, and their financial situation during the leave is better compared to the low flat-rate amount. While the Swedish insurance looks overall more generous at first sight, this difference to the German parental insurance decreases considerably after taking into account taxation effects.<sup>5</sup>

The flat-rate amount for labour market outsiders is harder to characterize. On the one hand, such a universal payment valorizes care work as such, as it is not conditioned by earlier work performance or need. At the same time, it is too low to secure the carers’ financial situation or change the hierarchy in payment of labour market participation versus care work. Therefore, it also fits with the social investment paradigm, as it does not work against the higher valorization of labour market engagement and provides indirect incentives to engage in paid work rather than care work.

The daddy months are instead a measure which more clearly follows the gender equality paradigm, as men are strongly encouraged to take at least this part of the leave. The redistribution of care work is supported through this policy instrument. Here Sweden is a pioneer because they have already implemented three non-transferable months.

Regarding the differences between the two countries, the low-wage bonus in the German wage-related component moves away from a straightforward implementation of wage-replacement and provides higher benefits for those with a net-income below €1000 a month. Women are clearly over-represented in this group (Voss and Weinkopf 2012). Through this measure, the German welfare state recognizes the subordinate integration of mothers in the labour market and redistributes income towards just this group, decreasing the income difference between men and women. It also helps to prevent poverty with regard to low-wage families. Therefore, this component of the German parental insurance is influenced by the gender equality and the social investment paradigm. From a gender



equality perspective, this measure has an ambivalent character as it might lead to a stabilization of mothers as being seen as default carers and second earners. For a family, it is economically much more sensible for the lower earning mother to stay at home if she receives up to 100 % of her salary than for the higher earning father who is oftentimes likely to receive only 65 % or less of his earlier salary. While this bonus improves the immediate financial situation of the caring mother, it also cements her role as the default carer. The low-wage bonus can, therefore, be described as an “affirmative” rather than “transformative” measure—improving the immediate situation of women, but not necessary leading to more gender equality in the long run.<sup>6</sup>

In Sweden, the gender equality bonus and the third reserved month in the parental insurance are rather following the gender equality than the social investment paradigm as they aim at a more just distribution of paid and unpaid work between men and women. An equal division of parental leave between the parents led to extra payments. This is also true for the partnership bonus that has recently been introduced in Germany. It should be mentioned that the Swedish gender equality bonus will be cancelled in 2017 as the Social Democrats, who plan to abolish it, argue that it is ineffective (Dagens Nyheter 16/09/2015). According to an analysis by the Swedish Social Insurance Inspectorate, the bonus has no measurable effects on the division of parental leave between mothers and fathers (ISF 2012).

Overall, the analysis of the German and the Swedish parental leave benefits in the light of the social investment and the gender equality paradigm shows that the existing regulations are guided by a mixture of both paradigms. The rather small differences that exist across the two countries are partly in line with our expectations: as the Swedish parental insurance provides three non-transferable months while Germany only provides two, this part of the parental insurance expresses a commitment to gender equality in Sweden more clearly. Furthermore, the Swedish wage-replacement rate is higher than the German one, which also constitutes an incentive for fathers to use more than the few non-transferable months. Yet another component, the German low-wage bonus, speaks for the recognition of mothers’ subordinate labour market integration. Such a commitment to the recognition principle is absent in the Swedish regulation.

### 3.2 *Policy Aims*

The empirical analysis of the political arguments and debates is based on relevant documents of the political processes. When comparing Sweden, the parliamentary discussions preceding the expansion of the fathers' quotas (2002/2016) and the introduction of the gender equality bonus (2008) are analysed (Riksdagens Protokoll 2000, 2007, 2015). For the German case, we look at the introduction of the German paid parental leave in the year 2007 (preamble of the law and parliamentary speeches of the Grand Coalition, see Deutscher Bundestag 2006a, 2006b, 2006c) and its further development, especially the introduction of the parental benefit plus in the year 2016 (Deutscher Bundestag 2015, 2016). We focus on arguments that are expressed by government members as well as criticism from opposition.<sup>7</sup>

In Sweden, the introduction of the second non-transferable month in parental insurance in 2002 has been explicitly driven by the idea of enhancing a more gender-equal division of care work between mothers and fathers. It was introduced under the Social Democratic government led by Minister-President Persson. To not intrude too much on parent's room to manoeuvre, the parental insurance was prolonged by one month at the same time. The second daddy month was brought forward by the Environmental Party and later on supported by the Social Democrats and the Left Party (Aftonbladet 30/03/2000; Riksdagens Protokoll 2000).

In Sweden, the role of the fathers plays a central role in the debate about the daddy months. Social investment arguments on mothers' higher integration in the labour market are hardly named at all. Instead, the Environmental Party, the Social Democrats and the Left Party strongly emphasize the value of fathers being at home, caring for their children. The second daddy month has been presented as a support for fathers who want to take longer care leave, to improve their bargaining positions towards their employers or even towards their partners (Riksdagens Protokoll 2000: 149; 152; 155).

These arguments show a strong commitment to the gender equality paradigm as they emphasize the worth of care work as such and the worth of fathers engaging in it, beyond the issue of mothers' labour market integration. The parties who advocate the introduction of the second daddy month put forward that these months can also be used by fathers who want to reduce their working time and get parental benefit for this reduction. Such a flexible use of parental insurance is very common in Sweden and is for example used to reduce children's time at day care centres.

The fathers' role and the presentation of the non-transferable months as the fathers' privilege rather than their duty have also been emphasized in the political debates. Additionally, those who oppose the extra fathers' quota refer to gender equality as an important aim of family policy. They state clearly that they are also advocates of a higher engagement of fathers in care work, but are opposed to such a "forceful" way of achieving it (Riksdagens Protokoll 2000: 139, 143, 149).

The third daddy month, which was introduced in 2016, has been debated in a similar manner, even if some aspects differ. This time, the Social Democrats, the Environmental Party, the Left Party and the Liberal Party advocated the reform. Once more, fathers and their role are mentioned, but this issue is less dominant than in the debate on the introduction of the second non-transferable month (Riksdagens Protokoll 2015: 36). Gender equality in general is taken up more often and the connection between a gender-equal labour market and gender equality in the family is put forward by the advocates of the third daddy month (Riksdagens Protokoll 2015: 23, 33). The Left Party even argues for a complete individualization of the parental leave benefit in the long run in that each parent would have an individual right to half of the parental leave, without the possibility of transferring the leave to the other parent (Ibid.: 23).

Again those opposed to the introduction of the third non-transferable month argue that they clearly are in favour of gender equality and a higher engagement of men in care work, but that they are against this kind of political decision-making in the family sphere (Ibid.: 18, 20, 27, 53). This argument regarding family's freedom of choice is taken up by the Left Party, pointing out that familial choices are already limited in other ways, for example, through the gender-wage gap which clearly gives women a subordinate position in a family's decision-making (Ibid.: 23). Such an argument refers clearly more to the gender equality paradigm than the social investment paradigm as it problematizes power inequality in the family, a sphere that is not addressed by the social investment paradigm. A representative of the Social Democrats also puts forward that the typical conservative policy instruments of financial incitements, like the gender equality bonus, has little effect on gender equality, while the daddy months have proven to be effective (Ibid.: 34–35). Also in the debate of the third daddy month, more gender equality aims than social investment aims are put forward by the advocates. Even if the labour market is taken up numerous times, the representatives rather talk about a signal to the labour market that fathers also have to take care of their children, and that

the labour market should generally become more equal, than about the higher employability of mothers (Ibid.: 23, 36, 54, 59).

The gender equality bonus was introduced in the year 2008 by the Conservative Coalition of the Moderates, the Liberal Party, the Christian Democrats and the Centre Party. The conservative coalition emphasizes that they do not want to push families in a certain direction, but provide a context within which families can decide freely how they want to distribute their parental leave amongst each other (Riksdagens Protokoll 2007: 74). When the Moderates directly refer to the gender equality bonus, they refer to mothers' employability and career opportunities (Regeringens proposition 2007: 12, 15) and build their argument on the intersection of the gender equality and social investment paradigm.

In Germany, the current parental leave benefit was introduced by the 2005 newly elected Grand Coalition of Christian Democrats and Social Democrats. While the Christian Democrats had argued for a child-bonus in the pension insurance during the election campaign, the formerly governing Social Democrats pleaded for a wage-related paid parental leave scheme and had commissioned a report to evaluate the introduction of this type of paid parental leave in Germany along the same lines as the Swedish model (Rürup and Gruescu 2003). When the new Christian Democratic family minister of the Grand Coalition came into power, she disregarded the suggestions of her own party and introduced the paid parental leave proposal previously put forward by the Social Democrats (Auth 2015).

Central arguments for the introduction of paid parental leave have been: (1) to guarantee families sufficient income during their child's first year, (2) to support mothers' (early) labour market re-entry and better reconciliation of work and caregiving, (3) to increase fathers' participation in child-caring, (4) to create freedom of choice between different life plans with children and shared caring and (5) to encourage parents to start a family at a younger age and to have more children, as birth rates in Germany are very low (Deutscher Bundestag 2006a; see also: Fleckenstein 2011; Henninger et al. 2008).

In general, the explanatory memorandum is characterized by socially investive arguments, but gender equality issues are also mentioned. In most cases, the memorandum refers to families, hardly to mothers or fathers. This also applies if the majority of those affected are women (e.g. in the case of employment interruption, labour market re-entry, career disadvantages and old-age poverty). It is only with regard to reconciliation that both sexes are addressed separately, but differently: mothers

shall be given the possibility to reconcile work and caring while fathers shall be encouraged to take over caring responsibilities (Deutscher Bundestag 2006a).

It is above all the Christian Democrats who are arguing with familial choices between different care arrangements to defend or justify their reform against inner party opponents. Different life models of families should, on the one hand, be supported by explicitly not determining familial task distribution. On the other hand, gender equality should also be addressed when different preferences regarding employment and family are fostered (Deutscher Bundestag 2006a). Choices and gender equality are intertwined here (Deutscher Bundestag 2006b, 3720). However, there is a conflicting potential between familial choices and gender equality, which is not discussed. Fathers' or mothers' choices and gender equality can contradict each other. Nevertheless, the government stresses the law's aim of reshaping the one-sided assignment of caring tasks to mothers (because of the following labour market discriminations) (Deutscher Bundestag 2006a).

Furthermore, human capital loss is often appealed: by mothers' withdrawal from the labour market, professional potentials and skills will be lost, which is problematic in a society that is threatened by a lack of qualified staff (Deutscher Bundestag 2006a). Therefore, economic independence and continuous occupational biographies are important aims that are repeated several times. Mothers shall return to the labour market as fast as possible (Deutscher Bundestag 2006a; c). There are only few parliamentarians who emphasize that it is especially mothers' financial independence which can be reached with a paid parental leave (see, e.g. Deutscher Bundestag 2006b, 3732, 2006c, 5360).

The low birth rate in Germany has also been mentioned in the governmental explanation by the governing parties. Financial insecurity and breaks in working life are discussed as the causes that shall be overcome by a wage-replacement benefit (Deutscher Bundestag 2006a, 1889). Paid parental leave shall facilitate couples' decision for children (Deutscher Bundestag 2006b, 3732) and is a response to the challenges of demographic change (Deutscher Bundestag 2006b, 3733, 2006c, 5359).

Contrary to the Swedish debate, where the privilege of active fatherhood has been stressed, the fathers' quotas have been part of controversial public and political discussions in Germany. Some conservative politicians have called the fathers' quotas a *Wickelvoluntariat* ("voluntary service in diaper changing") and criticize state paternalism. Within the parliamentary debate, the two non-transferable partner months are justified with the possibility

of fathers having a more active fatherhood and the facilitation of a shared parenthood (Deutscher Bundestag 2006a). The Christian Democratic Family minister stresses the positive effects on companies that have to rethink their expectations of fathers (Deutscher Bundestag 2006b, 3712).

Within the parliamentary debate, the new parental benefit had only sometimes been placed in a gender equality context—mostly by Social Democrats—while Christian Democrats preferred to emphasize familial choices (Deutscher Bundestag 2006b, 3725, 3737 f., 2006c, 5359 f.). Economy-related arguments like mothers' labour market participation that fit within the social investment paradigm have dominated altogether.<sup>8</sup>

Ten years later, during the debate of the parental benefit plus and the partnership bonus, the societal situation has changed a little. Fathers' quotas and mothers' employment have been socially accepted to a higher degree. Therefore, the argument on familial choices has been replaced by the governing Christian Democrats and Social Democrats with the argument of enabling partnership and parental sharing. At the same time, the maintenance of qualified staff has remained an important issue. Compared to the introduction of the paid parental leave, the social investment paradigm has been, to a greater extent, accompanied by gender equality arguments within this reform (Deutscher Bundestag 2015, 2016).

### 3.3 *Policy Outcomes: Do Different Aims Lead to Different Outcomes?*

We now ask if gender equality aims as pronounced within the Swedish debates lead to a more equal division of paid and unpaid work than in Germany where the social investment paradigm has been more prominent.

In Germany, more fathers are now taking paid parental leave. In 2013, six years after the introduction of the two daddy months, approximately one third of all fathers took advantage of some daddy months of paid parental leave. This percentage increased from 18 % in 2007. Before the reform, only 3.5 % of all fathers had used parental leave. About 80 % of fathers who are using the care time-out in Germany today stay at home for only two months and only a mere 6 % take parental leave for one year. The average duration taken is about three months (Statistisches Bundesamt 2012, 2015b; a).

In contrast, about 90 % of all Swedish fathers take some parental leave. Even if we look at older figures, fathers' engagement in care work has been substantially higher than in Germany. Six years after the introduction of the first daddy month in 2001, about three thirds of all Swedish

fathers took at least some parental leave. It should be noted that the Swedish parental leave is very flexibly designed and can be taken until the child is eight years old, and in 2001 already about 50 % of all fathers took parental leave in Sweden (Ericson et al. 2012). Still, just as in Germany, mothers take much longer leave periods. In 2014, only 25 % of all parental leave days were taken by fathers. Just after the introduction of the parental insurance in 1974, men used only 0.5 % of all parental leave. Thus, we can clearly observe a growth in fathers' engagement in care work over time in both countries—but with a markedly higher level in Sweden. In spite of this, we should be careful to compare Swedish statistics with German statistics on fathers' engagement in care work and draw conclusions regarding the effects of recent reforms, as the first Swedish daddy month was already introduced in 1995 and therefore had a much longer time to prove its effect.

The Swedish Social Insurance Inspectorate has recently conducted a study that allows us to analyse the direct effects of the second partner month and the equality bonus. The introduction of the second daddy month led to a rise in fathers' engagement in parental leave: their average leave days rose from 42 to 49 days. Still, it must be mentioned that the leave period was also prolonged by one month in context of this reform; women's parental leave days also rose in number—from 270 to 280 days. This is different to the effect of the first daddy month when the leave period was not prolonged: after this introduction, the fathers' out-take of days rose from 26 to 36 days, and the mothers' out-take sank from 320 to 295. The first daddy month thus led to a real redistribution of parental leave from mothers to fathers (ISF 2012). The equality bonus had no statistical effect on the out-take of parental leave of men and women. Overall, these country results regarding care incentives for fathers suggest very clearly that it is not really important whether a measure aims at gender equality or social investment. The important factor rather seems to be that the measure is as “hard” as possible: a soft measure, like the Swedish equality bonus, which featured a slightly higher payment if men and women share the parental leave equally, has no effect. More non-transferable months when the parental leave is prolonged at the same time has a small effect. A real redistribution of care work from men to women has only happened after the most “forceful” measure: a month that earlier could be used by mothers or father now had to be used by fathers—otherwise it expired (ISF 2012, 29–30).

Research shows that there is a strong connection between the employment of mothers and the parental leave of fathers: the more mothers work,

the more fathers participate in childcare. As Swedish parents who are on parental leave are statistically counted as being part of the labour force if they have a job (which is an interesting observation in itself), it is difficult to compare Swedish and German figures on mothers' labour market participation. Still, it is unquestionable that overall Swedish women are more integrated in the labour force. Women's labour market participation in Sweden has been rather stable between 1995 and 2011 at about 75 %, while the share of part-time employment is slowly sinking, from 24 % in 1995 to 18 % in 2011. German women are less integrated in the labour force than Swedish women, but their participation rate has risen by about 10 % during this time period, from just above 60 % to just above 70 %. Still, during this period of the rise of female participation in the labour market, the share of part-time work rose with nearly the same amount (Organisation for Economic Co-operation and Development 2012, 225, 238).

For mothers of children that are younger than six years, the labour market participation rate is less different than one might expect: it lay at 68 % in Germany and 77 % in Sweden in 2014. What differs is again the part-time ratio: while only 40 % of mothers of small children work part-time in Sweden, this is the case for 65 % of the German mothers (Eurostat 2015a, b). With regard to the German parental benefit reform, the labour market integration of mothers with small children has increased, as a national evaluation study shows: in 1996, only 26 % of all mothers with children below the age of three years had been employed. This share has increased up to 31.5 % in 2011. But most of these mothers, nearly 70 %, only work part-time (Keller and Hausteil 2012).

Regarding the outcomes of the paid parental leave reforms, the aims of both paradigms have been fulfilled. Mothers' employment rate has been increasing in Germany and women's part-time work has been decreasing in Sweden. Moreover, from a gender equality perspective, the aim of increasing male care participation has been met. The fathers' quotas have been successful, although to a different degree. Real shared parenting has been more advanced in Sweden, but also there it is still in its infancy.

#### 4 CONCLUSION

The analysis of the Swedish and the German paid parental leave schemes shows strongly that social investment policies and gender equality have much in common, especially regarding mothers' employment and the reconciliation of working with caring tasks. Thus, on closer inspection, it



becomes clear that there are, nonetheless, differences. Within the social investment policy, some equality aims are irrelevant: the recognition of care through time and money for carers—at home and done by mothers *and* fathers (in the sense of shared parenting). Overall, the social investment paradigm is based on the employability of women for its own sake, while the redistribution of paid and unpaid work in the gender equality paradigm is based on the premise of social justice that goes beyond employability or the sustainability of the welfare state and the economy.

Our hypothesis with regard to policy aims was confirmed: while the Swedish debates are mainly based on gender equality, the German politicians primarily followed the social investment paradigm. There are two ways of interpreting this: on the one hand, one notices that in our cases, conservative parties feel most confident with the social investment paradigm. That refers to the conservative-led governments in Germany, but also to the conservative-led government in Sweden, which introduced the gender equality bonus. As most of the discussed reforms were introduced by left-wing parties in Sweden, while the parental leave benefit in Germany was introduced by a coalition of Christian Democrats and Social Democrats, the Swedish advocates were more comfortable with gender equality as a central argument for political reforms, while the German ones were more hesitant. These findings conflict with approaches that consider social investment to be a social democratic project (Morel et al. 2011).

On the other hand, societal attitudes and cultural values with regard to gender roles and familial tasks are important. In Sweden, state-feminism has a long tradition and, as far back as the 1970s, the call for women's integration in the labour market as a core demand for gender equality had great influence (Borchorst and Siim 2008). This interpretation would speak for a Scandinavian integration of social investment arguments in the gender equality paradigm, so that both principles are followed simultaneously and have been followed since the “golden age” of the social democratic welfare model. This again would support the argument of Morel, Palier and Palme that social investment has, since the very beginning, played a central role in the Nordic welfare states.

Overall, our analysis shows that the social investment paradigm shifts its character when placed in different contexts. Even if it is the same paradigm, the aspects that overlap with gender equality principles are emphasized in a welfare state that is characterized by an overall commitment to gender equality, like the Swedish one, while its economic aspects are emphasized in a more conservative welfare state with traditional gender ideas.

In Germany, demographic change and societal ageing are considered to be serious welfare state problems. Social investment arguments, especially fostering women's employment, are perceived as the solution for increasing labour market potential and birth rate at the same time. Scientific expertise showed that the birth rate can only be increased by fostering women's employment (Rürup and Gruescu 2003). The modernization of family policy under the umbrella of the social investment paradigm was a feasible path for a Christian Democratic-led government that had always supported the traditional male breadwinner model. Only the Social Democrats emphasized both, social investment and gender equality arguments.

Our results concerning policy instruments are less clear. Firstly, it is astonishing that policy instruments are quite similar—despite the different aims that are brought forward in the debates. The paid parental leave schemes in both countries are similar with regard to duration, wage-replacement and flat-rate component and some non-transferable months. This means that Germany has introduced the gender equality instrument of non-transferable partner months, although gender equality aims are less prominent in the political debate. Furthermore, the German parental leave scheme includes a low-wage bonus, which clearly aims at recognizing mothers' higher risk of being in a low-wage occupation. This component clearly fits better with the gender equality paradigm. Such a bonus is non-existent in Sweden.

Assessing the regulation outcomes, the German main social investment aim could be fulfilled and mothers' employment rates have increased, although they are still lower than in Sweden. The gender equality aims in Sweden have also been met: part-time work of mothers' has decreased, which means greater labour market equality between men and women. Furthermore, the expansion of the partner months led to increased care participation of fathers. In this case, Sweden has been more successful, too. It should be noted, however, that the differences between the two countries with regard to fathers' engagement in care work and mothers' engagement in paid employment have multiple causes and cannot be based on the parental leave regulations alone. The greater the engagement of politicians in Sweden in working directly for more gender equality and being open about this motive, the greater is the contribution to a culture in which fathers' parental leave and mothers' full-time employment is more accepted and supported. In Germany, gender culture has just started to change, but it *is* changing, as the recent debate about the parental benefit plus has shown. These developments show that the extent

of effects of fast-track solutions—like non-transferable months—depends to a high degree on societally shared gender norms. Another crucial factor for gender equality, which is not discussed here, is the availability of high-quality full-time day care centres.

We can conclude that the social investment paradigm fails to address central causes for existing gender inequality. As Fraser (1997) has pointed out, redistribution is one side of the coin, recognition is the other. Shared parenting should be valued, especially when both parents try to participate equally. The recent Swedish expansion of fathers' quotas of up to three months and the German parental leave plus model point in the right—gender equality-oriented—direction.

## NOTES

1. It should be noted that the majority of parents actually receive an extra-payment from their employer (*föräldrapenningstillägg/föräldralön*) that lifts their parental insurance to just above 90 % of their earlier wage (Försäkringskassan 2011b).
2. In the Swedish case, there exists a third component, the “lowest level”, which is paid for 90 days on top of the 390 days paid leave with the wage-replacement or the basic level (Försäkringskassan 2011a: 2). This component is not discussed further, as it would make the analysis far more complicated without contributing considerably to the discussion at hand.
3. On top of that, the German paid parental leave also contains an absolute maximum above which parents do not receive any benefit: if a couple earns about €42,000 per month or if a single parent earns €21,000 per month, the right to paid parental leave expires. Such an absolute maximum is non-existent in Sweden.
4. It should, however, be noted that there is a *Progressionsvorbehalt* (progression clause). The parental benefit has to be added to the family income to set the tax rate for the remaining income.
5. This difference with regard to the taxation of social benefits is many times disregarded in comparative welfare research, leading to a defective presentation of benefits generosity in different regimes. For a closer discussion on this issue, see Martinek's dissertation on mothers' social citizenship (Martinek 2016).
6. For an excellent discussion of the affirmative/transformational divide, see Fraser's article on the redistribution-recognition dilemma (Fraser 1997).
7. We have to note methodologically that such an approach is difficult to evaluate. We do not know exactly if politicians really mean what they are expressing in parliamentary speeches and political processes. Politicians might use certain arguments, as they are most prone to lead to success, not because they really aim at a certain issue.

8. Whereas the introduction of a wage-replacement benefit and its consequences for mothers' earlier labour market re-entry has been generally welcomed, the minimum amount has been criticized by a lot of left-wing politicians. They argue that it discriminates students, housewives, social benefit recipients and needy families. A lot of politicians also note that places in childcare facilities are lacking and that parents are facing problems when the paid parental leave is over.

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PART IV

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## Political Representation



# The French Parity Law: A Successful Gender Equality Measure or a “Conservative Revolution”?

*Catherine Achin*

## 1 INTRODUCTION

Over the last 15 years, the political representation of women has increased significantly worldwide. This progression is linked to the exceptional rise of electoral gender quotas. At the beginning of the 2010s, more than half of all states in the world adopted quotas, whether required by law or put in place voluntarily by political parties. However, these electoral gender quotas nonetheless remain controversial, as evidenced by the numerous debates surrounding their justification (Dahlerup 2008) and the critical stances taken towards their practical effects (Franceschet et al. 2012).

In February 2016, there was a proportion of 22.7 % of women in the Lower House or Single House of the National Parliaments.<sup>1</sup> With 26.2 % of women at the National Assembly, France stands 55th in the world

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**Fig. 9.1** Percentage of women in national parliament (February 2016). World ranking (Inter-Parliamentary Union data. “Women in National Parliaments”. <http://www.ipu.org/wmn-e/classif.htm>)

□ n°1	: Rwanda (63,8%)
□ n°2	: Bolivia (53,1%)
□ n°3	: Cuba (48,9%)
□ n°4	: Seychelles (43,8%)
□ n°5	: Sweden (43,6%)
□ n°6	: Senegal (42,7%)
□ n°7	: Mexico (42,4%)
□ n°8	: South Africa (42%)
□ n°9	: Ecuador (41,6%)
□ n°10	: Finland (41,5%)
□ n°11	: Island (41,3%)
□ n°12	: Namibia (41,3%)
□ n°13	: Nicaragua (41,3%)
□ n°14	: Spain (41,1%)
□ n°15	: Mozambique (39,6%)
□ n°16	: Norway (39,6%)
□ ...	
□ n°55	: <b>France (26,2%)</b>

ranking in terms of women’s political representation, which is, in fact, little improvement compared with 16 years ago, before the parity law was passed (Fig. 9.1).

At the top of the global ranking, two kinds of state trajectories can be identified. On the one hand, the Nordic countries experienced an early and steady increase in the proportion of women (“incremental track”) often without legally binding measures (but inside party-quotas). On the other hand, other countries (in Africa, South America or Europe) experienced a sudden and sharp increase in the proportion of women in national assemblies, as a result of the implementation of legal quotas (“fast track”) (Dahlerup and Freidenvall 2005; Krook 2009).

This ranking immediately prevents us from overestimating the impact of the French parity law. While the main purpose of the law was to share political power between the sexes, it should be noted that not all political assemblies were affected in the same way. It is clear, from the ranking above, that where the percentage of women in Parliament is concerned, the parity law is not (yet) the radical reform some feminists initially hoped for.

And yet, in 2000, France was the first country to adopt a law based on applying the “principle of parity”. The term “parity” first appeared in

1992 in the title of a book by three activists for women's rights and issues: "*Au pouvoir citoyennes! Liberté, Égalité, Parité*" (Gaspard et al. 1992). It was then used in the international and European call for "equally shared power" embodied in particular by the 1995 UN Beijing Platform for Action of the Fourth World Conference on Women, and its application in national electoral quotas. The difference between "parity" and "quotas" is essentially semantic and strategic. In the context of the French "Universalist" Republic, advocates of better political representation for women circumvented the spectre of "communitarianism"—which is considered to be contrary to universalist values and which tends to be associated with quotas—arguing instead in favour of measures encouraging an equal division of power between the sexes.

Ever since, the particularly flexible term "parity" has been used in France to refer to equality between the sexes. The word is commonly used in politics, but also in areas such as governing bodies in public administration and private corporations, boards of examiners for competitive entrance exams, and even the division of domestic tasks within couples. It reflects a mathematical representation of equality (numerical equivalence between the two sexes) and also refers to the implementation of restrictive mechanisms in order to achieve this statistical equality (Bereni 2015, 9).

After a constitutional amendment in 1999, the French gender parity law was adopted in 2000, mandating an affirmative action policy to enhance women's representation in several elected assemblies. The parity law was reinforced in 2007, 2008, 2011 and 2013,<sup>2</sup> and its implementation extended to other social fields (large companies and public office). The gender parity law now requires all parties to present a strictly equal number of female and male candidates on party lists for all elections conducted via proportional representation (PR)—that is, municipal and regional elections, the European Parliament elections and the majority of seats to the national Senate. The law also requires parties to present mixed-gender pairs for departmental elections<sup>3</sup> (binominal voting system). For the elections at the National assembly, the parity law provides for proportional and heavy penalties on public funding for parties that do not present an equal number of male and female candidates.

Concerning the extension of the gender parity measure to other fields, it should be noted that the boards of large companies are now required to

respect a gender quota of 20 % (40 % in 2017) and this is also the case for all public institutions and management positions in high public office (see also Rouault in this volume).

A further salient point is that all officeholders in all parties, without exception, now value parity and the women's cause in their discourse. The overwhelmingly favourable consensus on this issue is striking. After strong opposition to the introduction of legal constraints, based on theoretical principles, once the law was passed, the debate died down and all political actors, whether men or women, have shown remarkable pragmatism in this regard. Does this mean, however, that gender parity measures have become deeply ingrained and that they have succeeded in changing both how political staff are recruited and how their political careers develop?

Sixteen years after the parity law was passed, it is worth asking how it has altered the decisive factors underpinning women's political representation and professionalisation in the political field. Have rule changes in politics led to changes in other fields and have they affected the traditional gender order that classifies and separates the sexes?

Based on several surveys conducted between 2001 and 2016 (Achin et al. 2007; Achin and Lévêque 2014), the present article will tackle the ambivalent effects of the parity law. After first explaining the genesis of the law and outlining certain French paradoxes concerning gender and political issues, the article will provide a short quantitative review of the impact of the law in the political field. It will conclude by showing that dominant professional politicians use gender-equality measures in a way that allows them to preserve masculine power and in-group sociability and to reproduce a conservative gender order.

## 2 GENESIS OF THE GENDER PARITY LAW: A SUCCESSFUL BATTLE

First, let us review some specific aspects of the issues relating to gender politics in France, which have previously been described as "paradoxes" (Scott 1997).

### 2.1 *French Paradoxes and Resistance*

It is well known that in 1848 France was the first European state to give all adult males the rights to vote and stand for office—and yet, in 1944, it

was one of the latest to give the same rights to women. Political modernity in France was founded on the exclusion of women. The “differences” between the sexes—henceforth naturalised and inscribed in language, institutions and practice—were co-produced by political modernity. Running counter to all the promises of “abstract universalism”, the differentiation in criteria for citizenship gave political meaning to the differences between the sexes. It also contributed to constructing “men” and “women” as homogeneous groups in political terms, preventing any self-definition on the part of the individuals concerned (Varikas 1995).

This inaugural gender gap produced lasting effects on political roles: these were defined by men for men and, for a whole century, were only embodied by men. This historical discrimination offers a potential avenue to help us understand why it is still so difficult today for women in France to gain access to the main political positions.

The second paradox is also historical. After the Second World War, and for 40 years, while French women were gaining a stronger place economically, as well as new rights concerning control of their bodies and other tokens of emancipation, their political representation remained very low and limited. During the 1970s, the French second-wave women’s movement was mainly reluctant to play the game of formal political representation (Picq 1993) (unlike in other European countries at the time, where the feminist movement was mostly equally divided between one autonomous faction and another faction favourable to institutional integration).

Above and beyond the weight of history, this long-standing under-representation of women in politics can also be ascribed to electoral regulations, which were, for a long time, unfavourable to women (single-member majority system for legislative elections under the 5th Republic, the practice of holding several positions simultaneously) and to the fact that the selection process for candidates was controlled by political parties in which women did not have powerful autonomous organisations at their disposal (Norris 2006).

No “elected status” exists guaranteeing candidates the possibility of returning to their original profession (whatever it might be) should they lose and working days can be never-ending—two further features of an unstable and time-consuming professional activity that raise all the usual problems for women in terms of necessary compromises. Political activity is not, however, a job like any other. It is referred to as a “vocation”, which does not necessarily require any particular training but relies instead

on learning potentially contradictory political roles “on the job” (Offerlé 1999). In order to stay the distance in this career, it is necessary to master both the formal and informal rules of the political game. And yet, this “logic of practice” (Bourdieu 1990) is essentially acquired behind the closed doors of male political networks.

In 1993, 6.3 % of the National Assembly were women, that is to say the same percentage as in 1945. The campaigns for parity and the controversies they triggered took place in this context. They questioned the dramatic under-representation of women, seen as a failure of democracy. While there was consensus concerning the fact that this highly male-centred political system was a *problem*, the appropriate measures that should be taken to fix it properly were much debated. The third paradox lies in the fact that, in less than a decade, parity progressed from a utopian demand defended by a few feminist activists to a consensual reform.

## 2.2 *The Passing of the Parity Law: A Surprising Success*

The success of mobilisation in favour of parity has been ascribed to the convergence, within the arena of women’s issues, of the demands made by activists from feminist organisations with those made by female academics, “femocrats” working in central administration and the European Union, and certain figures in political parties (Bereni 2015).

First, the proponents of parity formed a substantial social movement based on small feminist organisations involved in this issue. Following contributions from feminist academics, they shaped their claim within the terms of the republican universalism that is dominant in France. To avoid the failure of previous attempts to set up gender quotas (overturned by the country’s Constitution Council in the name of this republican universalism), they obtained the recognition of gender in political representation thanks to the concept of “parity”. The controversies on this issue opposed, on the one hand, those who saw parity as complete equality, democracy perfected and the true embodiment of universalism, and, on the other hand, feminists who saw parity, on the contrary, as a distorted form of equality contributing to essentialising gender and sex once again (Lépinard 2007a).

In both cases, the debates emphasised sexual difference—by reducing various differences to a binary sexual division, they reified that very division (Bereni 2007). Sexual difference was treated as the only “universal”

difference, as an immutable feature that could not be compared to other social distinctions. “While parity could have been an opportunity to retheorize the question of gender difference within the feminist movement and to propose a critique of the republican doctrine, feminists supporting the reform, as well as the majority of their feminist opponents, have tended to reproduce previous omissions” (Lépinard 2007b, 396). Ultimately, sexual difference was written into the very heart of universalist abstraction, leading to categories of sex and gender identities being presented as binary, preventing any other discrimination from being taken into account.

Second, the movement for parity benefitted from the support of European Union feminist networks, which had been promoting measures of equally shared power for years. France’s ranking position (one of the poorest among the European States in terms of women’s political representation) was also a strong argument for proponents of parity.

Last but not least, the reform succeeded because it coincided with the “crisis” in the political system (low voter turnout, political scandals concerning sponsorship, social gap between officeholders and citizens, and so on). The parity law was seen by Lionel Jospin’s socialist government as a cheap way of modernising and enlightening politics. The practical consequence of this majority view was that it reinforced an essentialist vision of sexual difference. Women had to enter politics to change behaviours and political actions. And they would necessarily do politics differently (with less ambition, more soundly, and so on), because they were supposedly different. This differentialist argument was decisive, and largely explains the limited impact of the parity law on the traditional gender order.

### 3 QUANTITATIVE IMPACT OF THE PARITY LAW ON THE POLITICAL FIELD: BOTH UNDENIABLE PROGRESS AND REPRODUCTION OF THE SEXUAL DIVISION OF LABOUR

Parity has led to a significant process of feminisation across all French political assemblies. Nonetheless, women are still sidelined in two important ways: first, they remain largely excluded from the most valued positions in the political arena (parliamentary office, leadership of local executive branches of government), and second, when they do access such positions, they are usually confined to supposedly “feminine” fields (which, in a vicious cycle, therefore prevents them from acquiring the necessary know-how and life skills to become more professional).

For a long time, women were in a position of weakness within the party structures that control nominations and excluded from local political office by well-known male figures ensuring their own self-perpetuation. In the context of parity, some female candidates were finally able to use their identity as women to enter politics. However, the decisive factors for reaching the pinnacle of a political career are still linked to different sorts of resources, both collective (position in the party) and individual (occupation or involvement in organisations). Laywomen who have managed to enter politics thanks to the so-called parity law therefore find themselves sidelined once the competition becomes stronger (Achin et al. 2007).

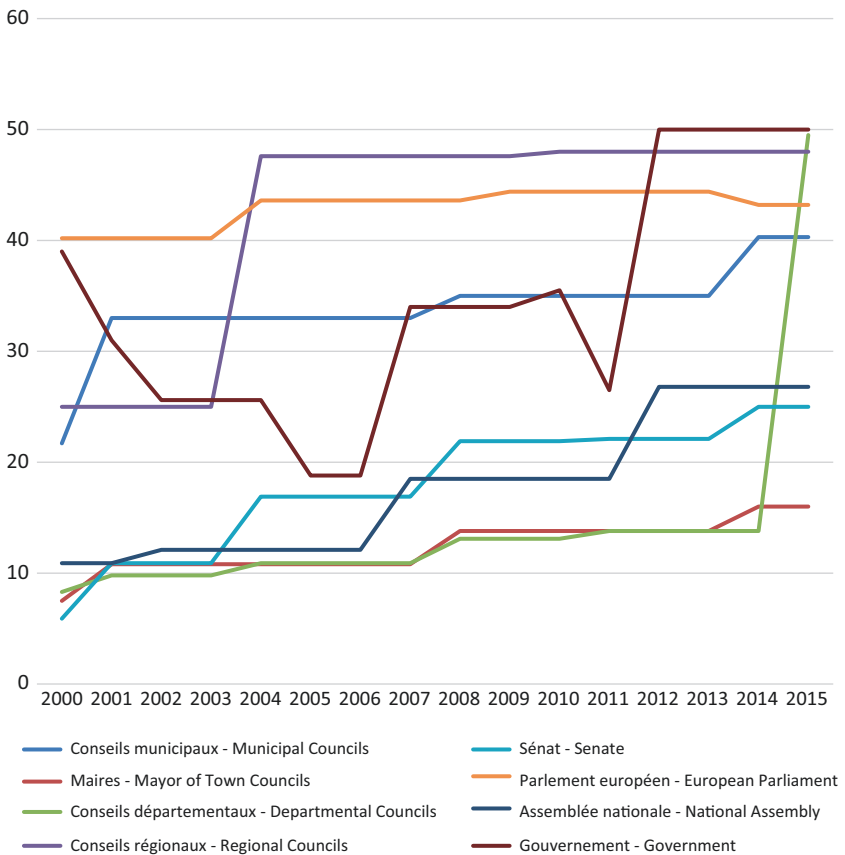


Fig. 9.2 Women’s representation at different political levels (2000–2016)



### 3.1 *An Increase Contingent on the Hierarchy of Political Assemblies*

The proportion of women has consistently risen in assemblies elected with a party-list system (municipal councils, regional councils and European Parliament) (Fig. 9.2).

These councils, which are barely professionalised or have only recently been created, have also been the least valued as traditional ways to achieve a political career. Now in 2015, as a consequence of the latest reinforcement of the parity law, the proportion of women in departmental councils has increased from 13.8 % to 49.5 %. This is a significant change, as the position of Departmental Councillor is, on the contrary, highly coveted in the construction of a traditional political career. It should also be noted that the proportion of women in government since 2012 has reached 50 %, although this is not a legal requirement. Finally, the assemblies most overlooked in terms of women's representation are the two Houses of Parliament (26 % and 25 %).

More significantly, in politics as in other professional spaces, women have not gained access to the leadership of assemblies: at the time of writing, in 2015, they only represent 16 % of heads of municipalities, 7 % of heads of regions (1 out of 20) and 10 % of heads of departments (10 out of 101). Women continually find themselves hitting the “glass ceiling”.

They also remain confined to traditionally “feminine” sectors. With only a few exceptions, the sexual division of political labour is being reproduced with considerable inertia. Whatever the level of the assembly in question, women continue to mainly take in hand questions of education,

**Table 9.1** Example of the feminisation of Commissions at the National Assembly in 2015

<i>Parliamentary commission</i>	<i>No of women deputies/total number</i>	<i>% feminisation</i>
Finance	10/72	13.9 %
Foreign affairs	13/73	17.8 %
Defence	14/70	20 %
Laws	16/73	21.9 %
Sustainable development	16/72	22.2 %
Economic affairs	21/72	29.1 %
Social affairs	27/71	38 %
Cultural affairs and education	32/71	45 %
Total	149/574	25.9 %

*Source:* Recoded on the basis of the data available on the National Assembly website

family, and social or cultural affairs—a series of fields which are considered less technical and which are less valued than others. This specialisation is not only “imposed” upon elected females; many of them voluntarily choose these affectations, due to processes of gendered socialisation and the internalisation of naturalised feminine qualities (Table 9.1).

Women have largely failed to obtain certain specific specialised posts (e.g., in transport, town-planning, finance, and so on). This dual mechanism (a vertical and horizontal division of political labour) has an impact on political professionalisation. By not occupying the renowned technical posts, most women encounter difficulties building up a specific skill set that would allow them to launch themselves into a long career. If women enter politics “as women”, it is logical that their qualities linked to professional training or activist experience are simply not recognised.

In this way, over the past 15 years there has been a strong increase in the proportion of women in political assemblies, thanks to the implementation of the parity law, and yet this has had no deep-seated effect on male control in the political arena. Discrimination now mainly lies in the under-representation of women in Parliament and in leadership positions. So which groups of women have benefitted directly from the parity law?

### 3.2 *“Parity Women”: Younger, Less Politically Experienced, Socially Selected, and Embodying Diversity*

Where the first implementation of the parity law in municipal elections in 2001 is concerned, a collective survey has demonstrated how swiftly the candidates heading the electoral lists took up the parity rule. The women elected on municipal councils in 2001 were younger than their male counterparts and more often non-party members. They were put to the fore thanks to their “purity” in politics. However, in order to be selected in the most competitive elections, such as the Parliamentary elections, having traditional political resources still remains a decisive factor. Being a “lay-woman” in politics may have become an advantage in municipal elections, but it has been redefined as a stigma in more challenging elections.

One of the arguments in favour of parity consisted in saying that politics had to offer a society a mirror in which it could recognise itself. The feminisation of certain assemblies undoubtedly shows great progress in this respect. As mentioned above, elected women are on average younger than their male counterparts (Achin et al. 2007), and tend to better represent professions that are highly feminised on a societal scale (employees,

**Table 9.2** Declared profession and socio-professional category or PCS [Occupation and socio-occupational category]<sup>b</sup> of the deputies elected to the National Assembly in 2012

<i>Elected officials in 2012 legislative elections: PCS/sex</i>	<i>No. of female deputies</i>	<i>%/of all fem. dep.</i>	<i>No. of male deputies</i>	<i>%/of all mal. dep.</i>	<i>Total</i>	<i>%</i>
10—farmers	3	2 % (1.2 %) <sup>a</sup>	11	2.6 % (2.7 %)	14	2.5 % (2 %)
21—artisans	1		0		1	
22—retailers and assimilated	2		8		10	
23—company directors	3		19		22	
<b>Total artisans, retailers, company directors</b>	<b>6</b>	<b>4 % (3.7 %)</b>	<b>27</b>	<b>6.4 % (9 %)</b>	<b>33</b>	<b>5.8 % (6.5 %)</b>
31—liberal professions	15		78		93	
32—professional political staff	5		10		15	
33—senior civil servants + public sector level A)	21		64		85	
34—professors, research professions	16		39		55	
35—professions in the arts and information sector	2		7		9	
37—private sector managers, admin. and marketing	26		79		105	
38—private sector engineers and technical managers	3		10		13	
<b>Total intellectual and higher professions</b>	<b>88</b>	<b>58.3 % (15.1 %)</b>	<b>287</b>	<b>68.3 % (20.6 %)</b>	<b>375</b>	<b>65.7 % (18 %)</b>
42—primary school teachers and head teachers	4		6		10	
43—intermediate occupations, health care and social work	7		2		9	

*(continued)*

**Table 9.2** (continued)

<i>Elected officials in 2012 legislative elections: PCS/sex</i>	<i>No. of female deputies</i>	<i>%/of all fem. dep.</i>	<i>No. of male deputies</i>	<i>%/of all mal. dep.</i>	<i>Total</i>	<i>%</i>
45—intermediate occupations, public-sector admin. (level B)	3		7		10	
46—intermediate occupations, private-sector admin. and communication	0		1		1	
47—technicians, public and state sector	1		4		5	
<b>Total intermediate occupations</b>	<b>15</b>	<b>9.9 % (26.5 %)</b>	<b>20</b>	<b>4.8 % (23 %)</b>	<b>35</b>	<b>6.1 % (24.7 %)</b>
52—public-sector employees (level C)						
54—private-sector employees	4		0		4	
55—farm employees	0		1		1	
<b>Total employees</b>	<b>4</b>	<b>2.6 % (45.2 %)</b>	<b>1</b>	<b>0.2 % (12.6 %)</b>	<b>5</b>	<b>0.9 % (28.1 %)</b>
<b>Total manual workers</b>	<b>0</b>	<b>0(8.3 %)</b>	<b>0</b>	<b>0(32.1 %)</b>	<b>0</b>	<b>0(20.8 %)</b>
70—retired persons	18	11.9 %	38	9 %	56	9.8 %
82—no declared occupation	11	7.3 %	15	3.6 %	26	4.6 %
84—students	1	0.7 %	0	0	1	0.2 %
Other occupations	5	3.3 %	21	5 %	26	4.6 %
<b>Total</b>	<b>151</b>		<b>420</b>		<b>571</b>	<b>100 %</b>

<sup>a</sup>*In brackets: data in relation to the French population in employment according to sex and category in 2012 (Source: INSEE, Enquête emploi, 2012)*

<sup>b</sup>The French National Institute of Statistics and Economic Studies (INSEE) classification of occupations and socio-occupational categories is a categorisation tool used to describe jobs, based on status, occupation and skills

certain sectors of “intermediate occupations” and “unemployed” people). However, at the pinnacle of the political world, in the National Assembly voted in 2012, the 26 % of women included cannot be said to have made any radical difference to the social selection of deputies (Table 9.2).

58 % of women MPs elected in 2012 belonged to the intellectual and higher professions (against 68 % of men), while this main professional category represents 15 % and 20 %, respectively, of the employed population in France. There are no manual workers at the National Assembly, and only four women MPs are employees. Although this was an argument in favour of parity, the law has not changed the social profile of professional politicians.

Concerning the representation of racialised minorities, this has become a political issue in France over the last few years, and it should be noted that a majority of the small number of multicultural politicians are women: for example, in 2012, ten MPs (six women and four men) out of 577 (1.7 %) embodied “diversity”. This can be read as a calculated use of parity (if we have to have women, they might as well bring other resources to the table too) but also as reflecting the preference of list makers and party leaders for women rather than men from racial minorities, whatever their respective political experience. Provided women from racial minorities do not show any “visible” signs of Muslim faith, they are usually seen as the “good girls of the Republic” in marked contrast with the stereotypes associated with Arab boys, who are supposedly uncontrollable (Guénif-Souilamas and Macé 2004).

While the implementation of the parity law has had undeniable effects on the increased proportion of women in political assemblies, we need to look into the hidden mechanisms underpinning this seemingly “picture-perfect parity”. Indeed, I have argued elsewhere that the parity law is in fact a “conservative revolution” (Achin and Lévêque 2014).

#### 4 THE PARITY LAW: A “CONSERVATIVE REVOLUTION”

Contrary to the alarmist views expressed by some during the parliamentary debates in the 1990s (“would there be enough competent women?”), all the party leaders seem to have “found a way” to adapt to parity. The requirement for parity has even become a new tool at the disposal of the people composing lists or deciding on nominations. It offers an excuse to set aside certain male competitors and, by selecting women with little political experience, this can further shore up the leadership of the man

looking out for them. For dominant political actors, the issue at stake is always knowing who is entering the political field, of course, but also how, under what conditions and for how long. I am not suggesting that nothing ever changes and that all rules are necessarily manipulated to serve other agendas; however, professional politicians—with a view to consolidating their own positions—do manage to control the selection and circulation of elected officials while at the same time declaring themselves greatly in favour of equality between the sexes. Behind the façade of the mixing of the sexes, one of the most efficient mechanisms for producing and preserving this “closed circle” of politics resides precisely in the renewed production of a gender order that remains grounded on differentiating between the sexes. This gender order prevents female entrants from building up their own governing identity and subverting the prevailing rationales of the political field.

#### 4.1 *Playing with Rules and Supervising the Careers of Political Women*

Several types of resistance to the logic of the parity law can be identified, firstly individual masculine resistance. Dominant political staff are perfectly adept at playing with legal rules: if there is a way around the “parity obligation”, they will take it.

For example, in municipal and Senate elections (seats on list), we have observed that what is referred to as “dissidence” is not just an individual political strategy but also mostly a male strategy. For the municipal elections in Paris in 2008 and 2014, 80 % of the dissident lists were led by men. When an incumbent is running for a term and is not sure that the list position he has been given by his party will allow him to be elected, he often prefers to create and lead his own list. This is why there are only 25 % of women in the Senate today (Achin and Lévêque 2014).

The majority parties in the Parliamentary elections use a second kind of resistance. They prefer taking heavy financial penalties rather than putting forward as many women as men. The LR party (*Les Républicains*, formerly UMP), the main conservative party now led by Nicolas Sarkozy, lost €4 million per year this way between 2007 and 2012, while the Socialist Party lost €1.5 million. This illustrates the fact that the cost of the parity law is not only symbolic for majority parties.

This also reminds us that French political parties have historically been unsupportive of social movements and in particular of feminist movements. They have not been open to the development of the women’s cause within their organisations. Unlike social democratic parties in other

countries, even the Socialist Party has long failed to enforce internal quotas for female candidates. Until now, there have only been a small number of women on the strategic political committees inside the parties. The masculine culture of these organisations seems difficult to shake.

Other elements seem to prove that women's careers in politics are "under supervision". Political professionals favour "parity" measures, providing they can control their impact. This supervision is hidden behind positive discourse on parity and behind media exposure given to a happy few political women.

For instance, in the 2014 municipal elections, the fact that the two main candidates in Paris were women (Anne Hidalgo for the Socialist Party, and Nathalie Kosciusko-Morizet for the UMP) justified extensive media coverage of the campaign and gave strong exposure to the two women.

The media reach of a small number of candidates in large cities (e.g., Martine Aubry (PS) in Lille or Maryse Joissains-Masini (LR) in Aix en Provence) might suggest that parity has been achieved. However, it conceals the fact that in 2014 only 17 % of lists were led by women.

More generally, the "*Gruppenbild mit Damen*", that is to say the photographs of mixed-gender assemblies (of government or local executive branches of government), masks women's under-representation at the head of these institutions or in the much-coveted top spots. Willingly put centre stage, women are often still excluded from the main positions of power and from the political backrooms (e.g., the strategic campaign committees).

Another overshadowed phenomenon is the higher turnover of female than of male politicians, in the government and in other assemblies alike. In 2008, for example, we established that the Paris City Council's renewal rate was 63 % for women against 48 % for men. In 2014, the composition of the Council of Paris again reflected a significant difference: 59 % of women were elected for the first time, against 41 % for men. This faster turnover of elected women is linked to the same logic that led to their recruitment. As in other societal sectors, women have been allowed to enter the political profession only in positions where they are supposed to perform their "feminine nature" and where they can implement the stereotypical qualities attributed to their sex: unselfish, caring, pure and down-to-earth approaches, as well as physical beauty. And if they fail to make their other skills recognised, they are only women, so they are interchangeable.

#### 4.2 *The “Impossible Identity” of Political Women*

Political identities are built by political professionals themselves and by their communication advisors, but also by their opponents and by journalists. As Annie Collovald (1988) has argued, political identities are always “strategic” and the result of “staging work”. Nevertheless, building up political identities seems to be a particularly constrained process for women.

Is the political field one of the social fields in which the formal and informal rules of exclusion are the most difficult to subvert? We should note that, in the French parity context, racism, class contempt, sexism and homophobia are still quite directly expressed; the Dominique Strauss Kahn scandal suffices to illustrate this (Delphy 2011). This scandal, which began in May 2011, was a clear revelation of the male, but also class and racial, solidarity that characterises the political world and journalism alike. Accused of sexual assault, attempted rape and unlawful imprisonment by Nafissatou Diallo, an employee at the New York Sofitel, the French politician (who was president of the International Monetary Fund at the time) received the spontaneous support of many male actors in French politics and journalism, while most other professionals remained resolutely silent on the matter.

However, while “bad speeches” and “bad practices” can now be publicly condemned, they still persist in ordinary situations. The things that women deal with on a daily basis in politics (being wolf-whistled on the floor of the National Assembly because they are wearing a dress, or because they are not; being subject to gossip—whether euphemistically expressed or not—about having used “sexual favours” to obtain their “position”, and so on), illustrates the double bind in which women find themselves when they try to build up an unprecedented political role: they seem to always be either “too feminine” or not feminine enough. All in all, they fail to embody a high-performance political identity.

Such explicit verbal violence has excluded individuals who do not conform to the “bourgeois male ethos” from the political field. The latter remains a preserved space in which all white, bourgeois male in-groups represent an informal rule.

Other more subtle mechanisms produce and reinforce sexual stereotypes adapted (or not) to political legitimacy. Journalists play an essential role in this process. Indeed, the journalistic treatment of women’s political campaigns tends to be based on certain abiding features—which Anne Hidalgo and Nathalie Kosciusko-Morizet did not escape during the



2014 municipal campaign in Paris despite both being highly educated and experienced.

Press analysis shows that political reporting typically employs a masculine narrative that reinforces conceptions of politics as a male preserve and treats the male as normative. Women remain the “others”, the outsiders disturbing a pre-established world. Four major features characterised the media treatment of the women in this particular political campaign.

They were called by their first names more often than men; “Anne and Nathalie” (or NKM); their status as wife, mother or daughter was systematically mentioned; their physical appearance was practically always brought up; they were often represented engaging in stereotypical “female activities and feelings”: taking care of, or talking to, children, being professionally active, but also good housewives, and so on.

References to their close circle (husband, parents, or “political mentors”) gave the impression that the candidates were not independent, that a man was always behind the scenes. While evoking private lives seems to be part of a “humanisation strategy” orchestrated by male politicians, these elements are most often mentioned against female politicians’ will. Both candidates in Paris in 2014 have affirmed their feminist awareness in their respective autobiographies and they have also shown that they are fully aware of the mechanisms that produce male domination in politics. And yet, they are caught up in the strong inertia of stereotypes produced about female politicians. In 2015, women in politics in France are still not able to escape their sex. They always appear to be “lacking” in something (competence, authority, etc.) or “overflowing” with other things (too on edge, too emotional, etc.). They therefore struggle to fulfil adequately the roles that have long been defined and embodied by men, with the male structural nature of these roles often overlooked due to its self-evidence.

## 5 CONCLUSION

Sixteen years after the law was passed, the evaluation of the impact of the implementation of the parity law remains mixed. On the one hand, the proportion of women in political assemblies has strongly increased, even though not all assemblies have been affected. The logic of parity has also been extended to other social spaces, where it has produced the same positive effects regarding the representation of women. As feared by its opponents, parity has proved extremely efficient as a tool—it has made sex-based quotas commonplace in all fields and, to some extent, has

highlighted white, male, bourgeois privilege. This, in turn, has encouraged greater awareness of discrimination against different minorities, long ignored and made invisible. On the other hand, discrimination mechanisms still prevent women from leading assemblies, and their political careers seem to be more fragile (due to a higher turnover rate). Moreover, the implementation of the parity law has contributed to reproducing a conservative gender order (according to which women have to act differently from men) and has failed to tackle the preservation of male power and in-group sociability. Behind the legal rules, a largely male “logic of practice” is still in place and ensures the existence of rigid borders between professionals and laypersons. The selection of political staff still depends on informal rules that discriminate against outsiders.

The political field remains a privileged historical locus for the invention, production and reproduction of dividing lines based on class, race and gender. These norms have triggered discourse and practice from all political actors, including those who wish to subvert and redefine the standards of the traditional gender order. Parity is much like social diversity: if you listen to official discourse, everyone is in favour of it, but in reality, this is only the case provided they can control its practical implementation and impact.

## NOTES

1. Inter-Parliamentary Union. 2016. “Women in National Parliaments”. Last modified February 1, 2016. <http://www.ipu.org/wmn-e/classif.htm>
2. See summary record no 13 on the National Assembly website: <http://www2.assemblee-nationale.fr>
3. In administrative terms, Metropolitan France is divided into *régions* (currently 22, to be reduced to 13 in January 2016), which are in turn subdivided into 96 *départements*.

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# Political Representation of Women in Europe. What Accounts for the Increase in the 2000s?

*Gesine Fuchs and Christine Scheidegger*

## 1 INTRODUCTION

In the last 15 years, political representation of women in parliaments in Europe has increased from 18.7 % to 26.5 % in the EU-28 and from 17.0 % to 26.1 %<sup>1</sup> in the member states of the Council of Europe. The strongest increase is in countries of Slovenia (+22.3 %), Macedonia (+26.6 %) and Andorra (+42.9 %). Studies have shown that this not only concerns descriptive, but also substantive representation; that is, the representation of interests of women (Childs and Lovenduski 2013). Interestingly, increases occurred in countries with legislated gender quotas, but also in states where softer voluntary party quotas exist as well as with parties that

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do not have any formal quota. How can we account for this improvement and what, then, can be learned for further efforts to balanced representation?

A balanced descriptive representation of men and women is an important and necessary, yet not sufficient ingredient for a high quality democracy. Scholarship on this issue has hypothesized a wide array of factors that influence representation (institutional, political-cultural and socio-economic). Feminist research has claimed that these features interact with each other (referring to it as the “Magic Triangle”) and thus must be analysed in a comprehensive manner.

In this paper, we seek to explain the increase in representation since the turn of the millennium. We explore the potentials of a multifaceted approach that helps us to better understand various aspects of the complex picture and to draw more reliable conclusions. We start with descriptive and interference statistics, identify groups of similar countries and show the usefulness of case studies before we conclude with arguments for fuzzy-set Qualitative Comparative Analysis (fzQCA) as a highly useful complementary method that helps to detect relevant pathways and necessary conditions for increased political representation of women in Europe.

## 2 POLITICAL REPRESENTATION

### 2.1 *Representation Matters*

Arguments for a balanced political representation of men and women often invoke justice: democracy includes the right and consequently the opportunity for all groups in a society to participate in relevant decisions, and the systematic underrepresentation of certain groups is considered a problem (Phillips 1994). Modern democracy in differentiated societies needs representation (see Mastropaolo 2011; Dovi 2011 for the history of the idea of representation). One key question of representation is whether representatives should be delegates of the represented—that is executing their will—or if they should be fiduciaries, acting in the sense of the represented. Hanna Pitkin (2008) differentiated between four forms of representation, namely *authorized representation*, where persons are legally authorized to act for another person; *descriptive representation*, where certain qualities of the representatives (like gender, ethnicity or class) stand for a certain group; *symbolic representation*, where representatives stand for certain ideas/images and, finally, *substantive representation*, where representatives act responsibly for and in the interest of the represented.

Pitkin criticized the idea of descriptive representation as reductionist—that is, the assumed nexus between certain qualities of representatives and responsible actions for the respective group. However, Anne Phillips (1994, 1995) convincingly argued that descriptive representation is relevant and that we need “politics of presence”: presence of formerly excluded groups first of all is a sign of their recognition, strengthens the trust in the representatives, answers to the need to better recognize the interests of formerly underrepresented groups and opens up the possibility to transform political agendas. Political deliberation needs the participation of key groups in representative decision making (Childs and Lovenduski 2013, 491): “Arguably, after Pitkin no one regarded descriptive representation as important, while after Phillips no one regarded it as unimportant” (Childs and Lovenduski 2013, 490).

Feminist research on representation first focused on descriptive representation and the socio-demographic and political profile of female (and to a lesser extent male) representatives, on career paths and related party politics/institutional factors (see e.g. Hoecker 1998; Hoecker and G. Fuchs 2004a; Lovenduski 2005; Rueschemeyer and Wolchik 2009; Karvonen and Selle 1995; Mateo-Diaz 2005).<sup>2</sup> Lately, feminist scholarship on representation has increasingly focused on substantive representation (see Mackay 2008; Celis 2008; Childs and Lovenduski 2013; all with further references). Research has shown that there is no linear link between women’s share in parliament and their substantive representation (Celis 2006; Studlar and Allister 2002), but that women’s presence is a necessary yet not a sufficient condition. Political positions of representatives not only depend on gender, but they are mediated by party policies and socio-economic background (Brunsbach 2011; Senti 1999; G. Fuchs 2015).<sup>3</sup> In this chapter, we will review research on key factors influencing the level of female representation, referring to the “Magic Triangle”. We will then introduce the method of fsQCA and the operationalization of different aspects of the “Magic Triangle”.

## 2.2 *Influences on the Political Representation of Women*

From the early 1970s on, feminist political research has argued that mono-causal explanations for the underrepresentation of women are insufficient. Individualist approaches that take gender merely as an individual independent variable are inadequate. Such studies would fail to analyse gender relations as a social structure (Bourque and Grossholtz

1984; Hoecker 1995, 24–25; Sauer 1994). A comprehensive model of explanation is needed that takes into account social structures as well as norms and institutions. One instrument is the so-called Magic Triangle. It is based on the assumption that socio-economic structures (like education, employment, income and gender-specific division of labour), political culture (norms, values and patterns of behaviour related to the political sphere) and institutions (like the electoral system, the party system, its quotas and modes of recruitment) all together contribute to the development of women's political representation. No single factor is sufficient to bring about a sustainable move towards an egalitarian share of power. For example, quota regulations need a respective political-cultural norm of equal representation for meaningful implementation, and political culture will not change in this direction if huge gaps in education persist. Interactions between these factors are underexplored, and the mutual influences are far from clear.

A “baseline model” of political participation was developed by Verba and Nie, which explains political participation with individual differences in structural resources like education, income and occupational status (Burns et al. 2001). The connection between resources and level of participation has been confirmed by numerous studies since (Norris 2009, 628–629). According to this model, women participate less in politics because they have—on average—fewer resources than men. Feminists criticized the model as biased, due to its focus on institutional forms of political participation and its survey based methods. However, an exemplary study with representative survey data on political participation in Germany confirmed the resource model; in part, socio-demographic background explained some of the gender gap. Yet, inexplicable residual differences remained if men and women with identical resources were compared (Westle 2001). Recently, the baseline model was complemented by the broader social context and institutional factors (e.g. voter registrations procedures, compare Norris 2009, 642). Socio-economic factors remain important and plausible factors in explaining political participation and representation.

Secondly, the political culture of a given country is a core factor that influences political participation of women. Following Almond's and Verba's “Civic Culture”, political culture derives from the relevant attitudes of the citizens that have been internalized through socialization processes. It means that political culture is the aggregation and distribution of specifically political orientations of the citizens. Such individualist notions have been complemented by research on social capital:

Robert Putnam (1993) showed a strong correlation between social capital (trust, norms, networks of civic engagement), the civic community and democratic performance. These norms and values underlying citizen cooperation are significant determinants for the functioning of a democracy. Their normative criteria are responsiveness and effectiveness of political institutions on the demands of the citizens (D. Fuchs 2007).

Relevant elements of political culture are orientations towards the role of women in general and in politics specifically. Countries with more traditional gender attitudes have lower female representation in parliaments whereas countries with more prevalent egalitarian attitudes show higher levels of female representation, like for example the Nordic countries; countries with a strong influence of the Catholic Church, generally hostile to women's emancipation, have lower women's shares in parliament. This tendency is also true of the party landscape: there are more women in leftist parties than in right-wing or conservative parties (Hoecker and G. Fuchs 2004b).

Finally, institutional factors play an important role. This entails the electoral system, the overall political system and the functioning of parties as main suppliers of political personnel (Lijphart 1998, 2012). Numerous studies have shown that proportional representation, size of constituencies and the number of winnable seats per party strongly influence the number of women in parliament (e.g. Matland 1998; Studlar and Allister 2002; overview in Krook and Schwindt-Bayer 2013). Electoral institutions, to maximize representativeness and inclusiveness, may send positive signals to women about the role of women in politics (Krook and Schwindt-Bayer 2013, 566). Political parties as central actors in democratic systems link the individual to the political process (overview in Kittilson 2013). Women face gendered opportunity structures in party politics, concerning resources (time, money, experience, see Lawless and Fox 2010), mobilization, nomination procedures and career development. Institutional instruments such as women's sections and role models like women in party leadership can account for rising women's share in politics. However, the effects vary across political and economic contexts because of intervening context variables. Analyses of party politics have often used a supply and demand model; they provided arguments for decentralized and transparent nomination procedures in order to increase women's presence (see, e.g. Norris 1997; Lovenduski and Norris 1993). Additionally, gender quotas have become increasingly popular. Research shows that they can be an efficient instrument, if certain conditions are met. Good quota regulations prevent evasion by party officials, and must have a numerical, measurable target.



Their specific rules should match the electoral system, ballot structure and list type. This entails also ranking order or placement rules and, finally, effective sanctions for non-compliance, like the rejection of lists (Dahlerup et al. 2013; Franceschet et al. 2012 and Hergenhahn in this volume).

However, in recent years these “conventional wisdoms” have been challenged by new evidence. As Krook (2010) shows, the results of various studies contradict each other—for example, women’s representation may increase without a proportional electoral system, and it can stay low even if there was electoral reform (Krook 2010, 889). In other words, socio-economic, cultural and institutional variables seem to be neither necessary nor sufficient to bring more women to parliament.

### 3 DATA

Our analysis includes 24 European countries for which complete data were available (see Table 10.1). We used a variety of data from different sources (European Union, Organisation for Economic Co-operation and Development, Institute for Democracy and Electoral Assistance IDEA, see Dahlerup et al. 2013, European Value Survey EVS) to operationalize all variables.

Political representation of women in national parliaments in the new millennium was captured by three different variables. Women’s share in parliament measures the level of women’s representation in the years 1991, 2000 and 2014. The progress of women’s political representation in the last 15 years is measured in two ways: as the proportional increase of women in national parliaments between 2000 and 2014 in comparison to the gap to parity of 50 % (variable progress) and as the increase of women’s share in parliament (variable increase).

**Table 10.1** Countries in analysis

<i>EU member states</i>		<i>Other countries</i>
Austria	Italy	Iceland
Belgium	Luxembourg	Norway
Czech Republic	Netherlands	Switzerland
Denmark	Poland	
Estonia	Portugal	
Finland	Slovakia	
France	Slovenia	
Germany	Spain	
Greece	Sweden	
Hungary	United Kingdom	
Ireland		

We then selected three variables for each side of the “Magic Triangle” shown in Table 10.2. We used the earliest completely available figures for each variable as we are interested in their effects on female representation.

For the socio-economic explanation side, we used variables for gaps in educational attainment, employment and economic leadership. The employment rate in full-time equivalents captures better the degree of integration in the labour market, including pay, than mere employment rates, since part-time work is widespread among women. We chose women’s share in company boards as both indicators of economic power and factual acceptance of female leadership. For the relevance of political culture, we used the year of full universal female suffrage and the prevalence of female political leaders, similar to economic leadership, as indicator for political power and de facto acceptance. No comprehensive survey data on gender norms were available for all countries, so we decided to use gender gaps in various reported political actions. This captures actual deeds, that is, consequences of norms and/or situation.

## 4 RESULTS: DEVELOPMENTS OF WOMEN’S POLITICAL REPRESENTATION SINCE 2000

### 4.1 *Description*

In the last 15 years, women’s representation in national parliaments in Europe has increased markedly.

In 2000, in 29 member states of the Council of Europe the women’s percentage was below 20 %, in only seven states it was over 30 %. In 2014, only 14 states had less than 20 % women in national parliaments, and 11 countries counted more than 30 %. Figure 10.1 shows the development for all European countries with available data. Countries not included in further analysis have an asterisk. It becomes clear even from this figure that countries with traditionally higher percentages of female parliamentarians tend to have lower increases than countries that started from a low level.

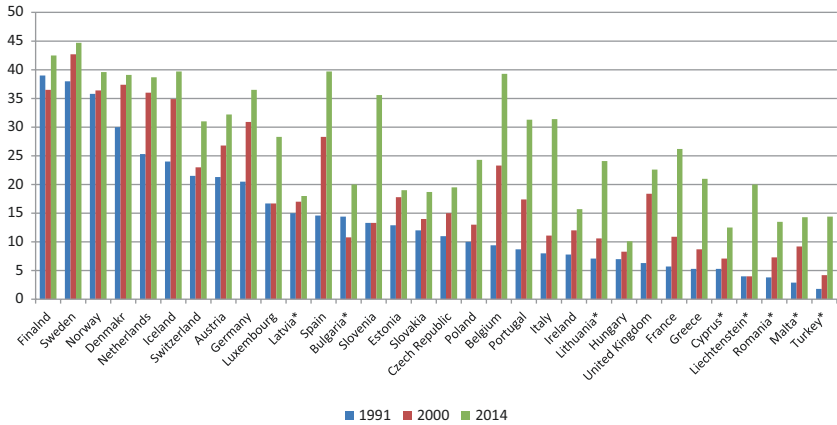
### 4.2 *Statistical Analysis*

If we explore how variables correlate with the increase between 2000 and 2014 or with the actual percentage of women in 2014, the *socio-economic variables* neither have a considerable nor a significant impact. This is true also for diverse regression models as for qualitative comparative analysis solutions below. For a long time, the time of the *introduction of universal*

**Table 10.2** Variables in analysis

<i>Dependent variables</i>	<i>Operationalization</i>	<i>Source and year</i>
Women's parliamentary representation	<ul style="list-style-type: none"> <li>• Women's share in parliament in 1991, 2000, 2014</li> <li>• Increase of share of women in national parliament 2014 in contrast to 2000</li> <li>• Progress = Difference in female representation in national parliament between 2000 and 2014 in relation to parity</li> </ul>	IPU, 2000–2014 (Hoecker 1998), (Hoecker and G. Fuchs 2004a)
<b>Independent variables</b>		
<b>Socio-economic status</b>		
Education	<ul style="list-style-type: none"> <li>• Gap in lower educational attainment (ISCED 0 to 2) between men and women in per cent</li> </ul>	• Eurostat 2005
Employment	<ul style="list-style-type: none"> <li>• Employment gap between men and women (25–64 years) in full-time equivalents</li> </ul>	• OECD, 2002
Economic female leadership	<ul style="list-style-type: none"> <li>• Women's share among board members of 100 largest listed companies of a country</li> </ul>	• Mainly Eurostat, 2004
<b>Political culture</b>		
Gender gap in political action	<ul style="list-style-type: none"> <li>• Gender gap in signing petition, joining boycott, and attending legal/peaceful demonstration</li> </ul>	• EVS, 1999
Legacies of women's involvement in politics	<ul style="list-style-type: none"> <li>• Year of women's universal enfranchisement</li> </ul>	(Paxton et al. 2008) - ditto
Female political leadership	<ul style="list-style-type: none"> <li>• Women as Head of State, Prime Minister and Head of Parliament</li> </ul>	
<b>Institutional factors</b>		
Legislated candidate quota	<ul style="list-style-type: none"> <li>• Quality of minimum quota: percentage, ranking provisions, effective sanctions</li> </ul>	• Own calculations with IDEA data, 2015
Voluntary party quota	<ul style="list-style-type: none"> <li>• Diffusion of voluntary party quota: number of parties in parliament with voluntary quota, minimum percentage</li> </ul>	ditto
Proportionality of electoral system	<ul style="list-style-type: none"> <li>• Gallagher Index (Index of disproportionality between vote and seat distributions according to the Gallagher "Least Squares Index" for all parties in general election)</li> </ul>	• Democracy Barometer, 2000

A detailed description of data and calculations can be found in the annex.



**Fig. 10.1** Development of women's political representation in % in national parliaments, 1991–2014 *Note:* 1991 was taken to have figures of the first completely free elections in former socialist states

*female suffrage* was supposed to be a very strong predictor for the level of women's political representation: the earlier women were enfranchised, the higher the current representation (e.g. Stockemer 2008; Hoecker 1995). Our data show that this significance diminishes over time (Table 10.3).

These results suggest that other, more contemporary factors superimpose the specific historical significance of women's enfranchisement as time proceeds. In the new millennium, early introducers of women's suffrage still tend to have higher women's percentages in parliament, yet they tend to have lower *increases* in women's representation. This leads to the observation that many countries with few women in parliament have made catch-up developments since 2000. Small gender differences in political action strongly correlate with higher women's representation in 2014 (Pearson's  $R$  0.402\*), whereas the existence of female political pioneers is rather unimportant. On the other hand, the increase in women's representation is associated with greater gender differences in political actions ( $-0.408^*$ ).

Finally, *institutional variables* (strength of quotas, proportionality) have a strong impact; the strength of legislated quota is associated with

**Table 10.3** Correlations of representation and increase with year of female suffrage

<i>Correlations</i>	<i>Pearson's R</i>
Women's representation 1991* × year of universal female suffrage	-0.528**
Women's representation 2000 × year of universal female suffrage	-0.493**
Women's representation 2014 × year of universal female suffrage	-0.194 (n. s.)
Increase in women's representation 2000–2014 × year of universal female suffrage	0.562**
N = 24	

the increase (0.624\*\*) but not with women's percentage in 2014; strong voluntary quota (0.410\*) and strong electoral proportionality (0.570\*\*) are positively associated with women's percentage in 2014. The following analysis confirms this tendency, as well as for increase as for the total percentage of women (Table 10.4):

The strength of legislated quota best explains the increase in women's representation, namely about 36 % of the variation in increase. If other institutional variables or gender differences in political action are included, the explained variance diminishes. Yet, the year of universal female suffrage improves the explanation in this model to nearly 44 % of the variation (Table 10.5).

The contrary is true for the total percentage of women in 2014: legislated quota fail to explain any variation. Instead, voluntary quota and proportionality of the electoral system explain 37 % of the variation. The inclusion of political culture variables does not improve this result. To conclude, institutional variables have the strongest impacts, but they play out differently for increase and percentage. This may be because there are different groups of countries with diverging history and situations.

**Table 10.4** Regression model for women's increase

<i>Dependent variable</i>	<i>Increase of women's representation 2000–2014</i>		
Independent variable	R <sup>2</sup> corr.	p	Standard error
<b>Model 1</b>			
Strength of legislated quota	0.362	0.001	0.620
<b>Model 2</b>			
Strength of legislated quota	0.362	0.015	0.651
Year of universal female suffrage	0.439	0.058	0.057

**Table 10.5** Regression model for women's share

<i>Dependent variable</i>	<i>Women's share in 2014</i>		
	<i>R<sup>2</sup> corr.</i>	<i>p</i>	<i>Standard error</i>
Independent variable			
<b>Model 1</b>			
Strength of voluntary quota	0.131	0.046	4.628
<b>Model 2</b>			
Strength of voluntary quota	0.131	0.069	3.996
Proportionality of electoral system	0.371	0.006	0.330

### 4.3 *Explorative Clustering and the Usefulness of Case Studies*

Therefore, we tried to distinguish specific groups in our sample and took a closer look where different levels of increase actually took place. What are the main characteristics of the countries? First of all, the **avant-garde group**—over 30 % women's representation (31 %–43 %)—contains “the usual suspects”, namely the Scandinavian countries Iceland, Denmark, Norway, Sweden and Finland as well as the Netherlands, Germany and Austria. These states introduced female suffrage early in the first wave around the First World War and they were the first with considerable percentages of women; in 1991, their average was about 25 %, in 2000 about one third: the introduction of female suffrage was very important for political culture and earlier developments of political representation. In the last years, however, the increases in these countries were only moderate. There is not an ongoing trend to parity. High representation goes along with two other features: a good proportionality of the electoral system—the Gallagher Index here is always below -5. Legislated gender quotas are absent, but these countries score high with voluntary party quotas (Table 10.6).

Secondly, Portugal and Switzerland are latecomer countries in terms of female suffrage—1976 (elimination of all restrictions) and 1971, respectively—but they share a thorough catch-up development of women's representation: in 1991, national parliaments counted about 15 % women; in 2014, the share had doubled to 31 % in both countries, situating them in mid-range. Both have highly proportional electoral systems with a Gallagher Index below -5.

Thirdly, the most pronounced increases in women's representation occurred in countries where their share was below 20 % in 2000 (with the

**Table 10.6** Increase in women's representation in % in "avant-garde group"

<i>Country</i>	<i>Share 2000</i>	<i>Increase 2000–2014</i>	<i>Share 2014</i>
Denmark	37.4	1.7	39.1
Sweden	42.7	2.0	44.7
Netherlands	36.0	2.7	38.7
Norway	36.4	3.2	39.6
Iceland	34.9	4.8	39.7
Austria	26.8	5.4	32.2
Germany	30.9	5.6	36.5
Finland	36.5	6.0	42.5

*Source:* Own calculations from data set

exception of Spain and Belgium), so there is also a catch-up development. Most countries in this group introduced female suffrage in a second wave, that is, around the Second World War; early introducers in this group are the Eastern European transformation countries Albania, Lithuania and Poland and the exception Luxembourg. Concerning institutional factors, this group is mixed, since about two third of the states have legislated gender quotas, whereas the rest has parties with voluntary party quota (exception: Liechtenstein). Secondly, the proportionality of the electoral systems differs greatly, from  $-17.7$  in France and  $-15.8$  in Hungary to below  $-5$  like in Italy or Slovenia (Table 10.7).

**Table 10.7** Increase in women's representation in % in "low starter catch-up group" (increase > 10 %)

<i>Country</i>	<i>Share 2000</i>	<i>Increase 2000–2014</i>	<i>Share 2014</i>
Slovenia <sup>a</sup>	13.3	22.3	35.6
Italy	11.1	20.3	31.4
Belgium <sup>a</sup>	23.3	16.0	39.3
France <sup>a</sup>	10.9	15.3	26.2
Portugal	17.4	13.9	31.3
Greece <sup>a</sup>	8.7	12.3	21.0
Luxembourg	16.7	11.6	28.3
Spain <sup>a</sup>	28.3	11.4	39.7
Poland <sup>a</sup>	13.0	11.3	24.3

*Source:* Own calculations from data set

<sup>a</sup>Legislated gender quotas in force

However, in some low-representation countries, the situation did not change much, and representation hardly reaches one quarter. Four transformation countries belong to this group that often have volatile party systems (Table 10.8).

In these countries, low increases go along with the absence of legislated quota—with the “artificial” exception of Ireland, which had its first national elections with quotas only in 2016. Suffrage was introduced mainly in the second wave around the Second World War. This description leads to an interesting starting point for further investigation: no single success factor sufficiently explains the increase in female representation; there seem to be different paths to a more balanced representation in parliament.

These described “catch-up countries” are the most interesting for our main question: What accounts for the increase in the 2000s in women’s representation?

Table 10.9 classifies these countries along the level of increase and the existence of legislated gender quotas.

**Table 10.8** Increase in women’s representation in % in the “low starter medium catch-up group” (increase < 10 %)

	2000	Increase 2000–2014 in per cent	2014
Switzerland	23.0	8.0	31.0
Slovakia	14.0	4.7	18.7
Czech Republic	15.0	4.5	19.5
United Kingdom	18.4	4.2	22.6
Ireland <sup>a</sup>	12.0	3.7	15.7
Hungary	8.3	1.8	10.1
Estonia	17.8	1.2	19.0

Source: Own calculations from data set

<sup>a</sup>Legislated gender quota in force in Ireland, but first national election 2016

**Table 10.9** Catch-up countries according to increase and quota

	Legislated quotas	No legislated quotas
Considerable increase >10 %	Belgium, France, Greece, Poland, Slovenia, Spain	Italy, Portugal, Luxembourg
Low increase < 10 %	(Ireland)	Czech Republic, Estonia, Hungary, Slovakia, United Kingdom



Why Slovenia and Poland have successfully introduced legislated gender quotas, whereas other Central East European countries abstained and have only low increases? This exemplary question demonstrates that besides statistical reasoning, *comparative case studies are inevitable*. In the case of Poland, reasons for quotas and its positive results can be found in the political opportunity structure that was more conducive than elsewhere in the region. The country is known for traditional gender stereotypes, a conservative Catholicism and an almost complete ban on abortion. However, it is also a country with strong conflicts of gender roles and a comparatively high mobilization of the women's movement for women's rights (G. Fuchs 2013; Korolczuk and Saxonberg 2014). Electoral gender quotas were introduced in 2011 thanks to the instrument of the "citizens' initiative": it obliges parliament to debate a law proposal if civil society manages to collect 100,000 signatures. A "Women's Congress" launched an initiative for a 50 % gender quota in electoral law; parliament watered this down to a 30 % quota (Sledzinska-Simon and Bodnar 2013) that is medium strong (the sanction for non-conforming lists is invalidation, but there are no prescriptions for ranking order of candidates). Sceptical analysts pointed to the only moderate increase in the first election with quota regulation (e.g. Millard 2014), but the latest elections in 2015 gave just another increase to 27.4 % women, although the nationalist party Law and Justice (PiS) won the absolute majority of seats (Druciarek and Nizynska 2015). Here again, political mobilization was very important for an increase, and quota regulations were facilitated by institutional features of the political system.

A detailed description and analysis of societal dynamics in individual countries allows us to understand each case, even if it is unusual. Yet, case studies are hardly able to evaluate the relative importance of detailed factors in comparison to other cases. We still need a method that combines the advantages of qualitative and quantitative approaches.

#### 4.4 *Qualitative Comparative Analysis as An Advanced Method*

Therefore, we apply Qualitative Comparative Analysis (QCA) as an approach. For this chapter, we employed the qualitative comparative analysis techniques calibration, truth table, identification of necessary and sufficient conditions, and logical minimization.

Qualitative comparative analysis combines the advantage of qualitative and quantitative methods (Ragin 1987). It was developed to deal with the

widespread problem social scientists encounter, of many variables and small or intermediary sample size. In contrast to regressions, the qualitative comparative analysis approach has the comparative advantage to be able to deal with equifinality and conjunctural causation (Perkins and Neumayer 2007). That means there are different possible ways how countries can reach the desired outcome of an increase in women's political representation. A certain condition may play an important role in one context, but not in another. For instance, the widespread use of voluntary party quota may make little difference for women's representation in a proportional election system, but in a majoritarian election system it is a relevant condition to increase women's representation in parliament. In a proportional election system, a legislated candidate quota may have a similar effect. This context-sensitivity makes qualitative comparative analysis attractive for researchers interested in complex causal patterns. Furthermore, qualitative comparative analysis can test for causal asymmetry. This means that the presence and the absence of the outcome, respectively, may require different explanations (Berg-Schlosser et al. 2009, 9). The explanation of the presence of a phenomenon like the increase of women's representation in Europe between 2000 and 2015 does not imply that this explanation automatically also accounts for the absence of the same phenomenon, i.e. the non-increase or decrease of women's representation.

Qualitative comparative analysis as a method separates itself from quantitative methods by a terminology which is more in tune with qualitative wordings; for example, independent variables are called conditions and dependent variables outcome, as well as particular notation rules. For instance, if a condition is present, this is indicated in uppercase letters (e.g. PROGRESS or BOARDS). The absence of a certain condition or outcome is indicated by lowercase letters (e.g. progress or boards). We follow the terminology and notation of the field.

To capture variation we use fuzzy-set qualitative comparative analysis (fzQCA),<sup>4</sup> because it makes a qualitative difference if there are less than ten or almost 40 % women in a parliament or a board. Fuzzy-set qualitative comparative analysis requires researchers to recode their variables to numbers between 0.0 and 1.0. In fuzzy-set qualitative comparative analysis the tipping point is 0.5. If a condition or outcome is below 0.5 it is written in lowercase letters, above 0.5 in uppercase letters. For example, it is considered as gender parity in the women's representation literature if there are between 40 and 60 % women in parliament (compare Dahlerup and Leyenaar 2013, 10). Therefore, we set the fuzzy-set value

of this condition on 1.0. The 1.0 represents full membership of this case among the countries with gender parity. If there are no women in the national parliament, then this country receives the score 0.0, meaning not part of the cases with gender parity. Parliaments with a strong minority of women (25–40 %) are nearer to gender parity than countries with a small minority of women (10–25 %). The first can be set, for instance, to 0.6 (nearer to parity 1.0, then to no parity 0.0), and the second to 0.4 (on the way to parity, but nearer to no parity). If there is a male dominance among parliament members (1–10 % women) this can be set to 0.1, to make clear that it is much nearer to 0.0 than to parity. This process of attributing values from 0.0 to 1.0 to social phenomena is a theoretically informed process and is called calibration. Qualitative comparative analysis forces researchers to do so in an explicit and transparent way. We used the indirect direct calibration method (Schneider and Wagemann 2007, 35–40).

After calibration, the qualitative comparative analysis helps to identify necessary<sup>5</sup> and sufficient<sup>6</sup> conditions for reaching a particular outcome and overviews all logically possible combinations (e.g. configurations or paths) of conditions and their outcomes in a so-called truth table. The essence of the truth table is distilled in the logical minimization process<sup>7</sup> resulting in solution terms stating the relevant paths for the outcome. Their theoretical relevance has to be interpreted by the researchers.

With consistency and coverage there are two measures to assess the explanatory quality for the outcome of a single condition, a truth table rows (raw consistency), a single path, or the whole solution term (Thomann 2015a, 1376–1377). Both measures range from 0 to 1, where 1 stands for fully consistent (respectively covered) and 0 for completely not consistent (resp. covered). *Consistency* assesses the degree to which the cases sharing a given condition or combination of conditions (e.g. high socio-economic status and favourable political culture) agree in displaying the outcome in question (e.g. increase of women's representation). That is, consistency indicates how closely the expected relation is approximated (Ragin 2006, 292). For us, a case with a high socio-economic status and favourable political culture, but low increase of women's representation reduces the consistency. *Coverage* "assesses the degree to which a cause or causal combination 'accounts for' instances of an outcome. When there are several paths to the same outcome, the coverage of any

given causal combination may be small. Thus, coverage gauges' empirical relevance or importance" (ibid.). A coverage of 0.7 means that 70 % of cases are explained by the model. "Raw coverage expresses how much of the outcome is covered by a single path, solution coverage does the same for the solution term" (Thomann 2015b, 185–186), "while unique coverage indicates how much a path covers alone. The basis on which appropriate levels for these measures (0–1) are chosen should be research-specific. Consistency sufficiency should not be below 0.75. Raw consistency levels were chosen according to 'gaps' in the raw consistency values and the presence of contradictory cases (Schneider and Wagemann 2007, 127–128, 143–145). Contradictory cases are 'more in than out' in the set of explanatory factors, but 'more out than in' the outcome set; thus, the explanation was not sufficient for the outcome" (Thomann 2015a, 1377). For the calculations we use the qualitative comparative analysis packages in R, an open source tool.<sup>8</sup> We apply the standard analysis procedure and rely on the respective solution term. The online appendices of this paper contain the main truth tables as well as a discussion of measurement and calibration.

#### 4.5 *Results of the Qualitative Comparative Analysis*

Firstly, we discuss the results for the **progress** of women in national parliaments—that is, the relative progress in relation towards parity. Secondly, we present the results for the **increase** of women's representation between 2000 and 2014—that is, the numerical increase in per cent. We use capital letters if a feature is present and lower case letters for its absence. The \* sign signifies "AND"—that is, that several factors occur in conjunction. We write countries in capital letters, if their outcome is present as the hypothesis suggests. Countries in lower case letters indicate contradictory cases, as the conditions are present as hypothesized, but the outcome is absent. Countries may have more than one path to the outcomes PROGRESS or INCREASE.

We did not find any single necessary condition for the outcome PROGRESS that is reasonable. This is in line with one basic assumption of the Magic Triangle, namely that no single factor or feature brings about the change. It confirms Krook's results that no factors on their own account for levels of female representation, but that all relevant con-

ditions worked in combination with other factors (Krook 2010, 904). Moreover, only one political-cultural variable proved sufficient for progress towards gender parity in parliament, namely the introduction of universal female suffrage. Gender differences in political action and the existence of female political leaders on the national level did not contribute to a solution term.

The QCA analysis provided four solution terms by separate minimization of the conditions of each side of the Magic Triangle (see Table 10.10). The solution term for the socio-economic side entails one path. The eight countries of **path 1** to PROGRESS have low gender differences in low educational attainment, but a rather large gap in employment. Ireland is the only contradictory case here, so this part has a rather high consistency (0.880) and coverage (0.710). There is no reasonable solution term for the political-cultural side of the Magic Triangle.<sup>9</sup> The institutional side comprises three solution terms. **Path 2** entails strong legislated quota, weak or missing voluntary quota and a rather low proportionality of the electoral system. This combination leads to substantial progress in France and Greece, but fails to do so in Poland and Ireland (<0.5). Thus, strong legislated quota may be a remedy to low women's representation, if a more proportional electoral system is

**Table 10.10** Pathways to the outcome “PROGRESS”

Path 1	EDUCATION*employment* (BEL, FRA, GRC, irl, ITA, NLD, PRT, ESP)
Path 2	LEGISLATEDQUOTA*voluntaryquota*proportionality (FRA, GRC, irl, pol)
Path 3	legislated quota*PROPORTIONALITY (aut, deu, ISL, lux, NLD, NOR, swe, cze, dnk, est., FIN, ITA, svk, CHE)
Path 4	legislated quota* VOLUNTARYQUOTA (hun, gbr, aut, deu, ISL, lux, NLD, NOR, swe)

*Notes:* countries in lower case: contradictory cases

**Table 10.11** Pathways to the outcome “INCREASE” (conservative solution)

Path 1	LEGISLATEDQUOTA (irl, POL, GRC, FRA, PRT, BEL, ESP, SVN)
Path 2	VOLUNTARYQUOTA*PROPORTIONALITY (LUX, SVN)

politically not feasible. This makes sense if we look at **path 3**: no legislated quota, but a high proportionality of the electoral system opens the way to PROGRESS. This is true for six of 14 countries, including Switzerland. The alternative is **path 4**, namely a strong proliferation of voluntary party quota where legislated quotas do not exist. In three Scandinavian countries this leads to PROGRESS, in six cases increase of women's representation stayed low ( $<0.5$ ).

We then ran a qualitative comparative analysis with the increase as dependent variable. The power of the independent variables to explain the increase in all countries of the sample was rather small. However, a closer look at the above-mentioned "catch-up" countries results in a rather strong explanatory power of institutional variables (Table 10.11).

Catch-up countries had an increase between 2000 and 2014 if they had strong legislated quota (**path 1**) or strong voluntary quota combined with a high electoral proportionality (**path 2**); Ireland is, once again, the exception, as there had not been any elections after the introduction of the legislated quota. Where these conditions were absent or low, only low increase could be found (like Czech Republic, Estonia, Hungary, Slovakia, United Kingdom). Like in the analysis for progress, neither socio-economic nor political culture variables had strong explanatory power.

## 5 CONCLUSION

The increase in women's political representation in Europe since 2000 proved to be quite heterogeneous. We could distinguish certain groups, like the avant-garde group and groups of faster or slower catch-up countries. Reasons and explanations for these different groups vary. Generally, the **institutional side** of the Magic Triangle consistently over all methods proved to be the most important factor for the outcomes women's share and for the increase. However, different variables were responsible for them. Regression analysis and qualitative comparative analysis showed that legislated quotas lead to progress, whereas voluntary quota and a good electoral proportionality are responsible for a high women's share. The different institutional factors seem to be complementary: countries with a good electoral proportionality and voluntary party quota do not need legislated quotas. These may get

implemented where voluntary quota and proportionality do not exist. Where neither voluntary nor legislated quotas exist and the electoral system has disproportionate effects, not much has changed since the turn of the millennium. Many times **political culture** has been supposed to be the single most important side of the Magic Triangle. Our different analyses, however, showed that political culture factors are only sometimes relevant. For example, the significance of the introduction of universal female suffrage for women's share diminishes over time. The gender gap in political action and existence of female political leaders had no reasonable impact. This suggests that these variables do not appropriately measure the decisive features of political culture. As the example of Poland showed, peculiarities of the political process are nevertheless important to understand national developments. Political culture thus remains an important factor, but we need better data that may be difficult or impossible to obtain. Strength and character of the national women's movements or attitudes towards women in politics may capture the gendered political culture better, but may need case studies. Finally, the **socio-economic** side of the Magic Triangle did not have any significant influence on the increase or the total women's share. Are socio-economic features irrelevant? This would contradict basic assumption of feminist political science. Another conclusion may be that the achieved level of gender equality in terms of education and labour market participation is sufficient for more women's political representation. Socio-economic differences might still be relevant if the overall level in education is lower, for example, if considerable gender gaps in literacy rates exist. For the European context, future research should concentrate on the interaction of institutional and political-cultural factors. Consistent results over different methods, like the complementary character of institutional features, prove that the strategy to combine and dovetail different methods of investigation is indeed very productive and useful. We did only exploit a small part of the full potential of qualitative comparative analysis. Further research with the help of qualitative comparative analysis would gain from more reliable data, especially from qualitative data.

## 6 ANNEX: DATA, OPERATIONALIZATION AND CALIBRATION

*Operationalization and Calculation, if applicable. Full Calibration  
source and year of data*

<b>Outcomes:</b>	<b>SHARE:</b>		
<b>SHARE</b> = women's share in parliament (2014)	40.0–59.9 %	Gender balance	1.0
<b>PROGRESS</b> = increase/gap to parity 2000–2004	25.0–39.9 %	Large women minority	0.6
<b>Increase</b> = average womens' share in parliament 2010–2014/average womens' share in parliament 2000–2004	10.0–24.9 %	Small minority of women	0.4
————	0.1–9.9 %	Male monopoly	0.2
	0.0 %	Full exclusion of women	0.0
	<b>PROGRESS:</b>		
	<0.0	Decrease (increases distance to parity)	0.0
	0.000–0.049	No change (parity in 300 to several thousand years)	0.1
	0.050–0.099	Rather small increase (parity in 150 to 300 years)	0.2
	0.100–0.199	Minor increase (parity in 75–150 years)	0.4
	0.200–0.299	Medium increase (parity in 50–75 years)	0.6
	0.300–0.399	Rather strong increase (parity in 38–50 years)	0.8
	0.400 or bigger	Strong increase (parity in less than 38 years)	1.0
<b>Conditions</b>	<b>EDUCATION:</b>		
<b>Socio-economic status</b>	–2.0 % =	Small gender gap (at disadvantage of men)	1.0
<b>EDUCATION</b> = Lower education of women (Less than primary, primary and lower secondary education (levels 0–2) minus lower education of men (2005, 15–64 years old) Eurostat	–2.0 till 2.0 % =	Parity women & men	0.9
	2.0–4.99 % =	Small gender gap (at disadvantage of women)	0.6
	5.0–7.49 % =	Medium gender gap (at disadvantage of women)	0.4
	7.5–9.99 % =	Large gender gap (at disadvantage of women)	0.0
<b>EMPLOYMENT</b> = percentage men in employment in full-time equivalents (2002) minus percentage women in employment in full-time equivalents (2002) Eurostat	<b>EMPLOYMENT:</b>		
	–9.9 to 9.9 %	Quasi parity	1.0
	10 to 19.9 %	Small gender gap	0.8
	20 to 29.9 %	Medium gender gap	0.4
	30 to 39.9 %	Large gender gap	0.0

*(continued)*



## ANNEX (continued)

<i>Operationalization and Calculation, if applicable. Full source and year of data</i>	<i>Calibration</i>		
<b>BOARDS</b> = percentage men among board members minus percentage women among board members EU, data set 0.37_en.xls, <a href="http://ec.europa.eu/justice/gender-equality/gender-decision-making/database/business-finance/supervisory-board-board-directors/index_en.htm">http://ec.europa.eu/justice/gender-equality/gender-decision-making/database/business-finance/supervisory-board-board-directors/index_en.htm</a> CH 2010: Schillingreport 2015, p. 24, Table 6.5.1, p. 10, Table 6.2.1	<b>BOARDS:</b> 40.0–59.9 % 30.0–39.9 %  20.0–29.9 % 10.0–19.9 %  5.0–9.9 % 0.1–4.9 % 0.0 %	Gender balance Large minority of women Medium minority of women Small minority of women Few women Women almost absent Women completely absent	1.0 0.8  0.6 0.4  0.2 0.1 0.0
<b>Political culture</b> <b>ACTION</b> = Mean men item v179-v181 minus mean women item v179-181 1*, wave 3 (1999), item v179-v181, (for Norway v96-v98 and Switzerland 2*, wave 5, data of 2007)	<b>ACTION:</b>  –0.049 to 0.049 =  0.050 to 0.099 = 0.100 to 0.199 = 0.200 or bigger =	No difference  Small difference Medium difference Big difference	1.0  0.8 0.4 0.0
<b>SUFFRAGE</b> (year) (Paxton, Green and Hughes 2008), variable UNIVSFFRG	<b>SUFFRAGE:</b> 1st wave = 2nd wave =  3rd wave =	early (till 1930s) = medium (1940s–1950s) = late (1970s or later) =	1.0 0.6  0.0
<b>PIONEERS</b> 0 = no female president, prime minister or head of parliament till 2003 1 = one female president, prime minister or head of parliament till 2003 2 = two or three till 2003. 2 counts as 1.0 as not all countries have all three positions ICPSR 24340 Paxton, Green and Hughes (2008), variables FRSTPRES, FRSTPM, FRSTHDPRLMT.	<b>PIONEERS:</b> 0 no female pioneers 1 one female pioneer 2 two or three female pioneers		0.0 0.6 1.0
<b>Institutional factors</b> <b>LEGISLATED QUOTA</b> = 3 items (0–2) cumulated to index (0–6): 1) Legislative candidate quota? 0 = no legislated candidate quota; 1 = candidate quota legislated; 2 = legislated candidate quota with 40 % or more 2) Ranking provisions	<b>LEGISLATED QUOTA</b> 0 =  1 = 2 =  3 =	No legislated quota  Only candidate quota Weak candidate quota  Medium candidate quota	0.0  0.4 0.6  0.8

(continued)

## ANNEX (continued)

<i>Operationalization and Calculation, if applicable. Full source and year of data</i>		<i>Calibration</i>	
0 = No ranking provisions; 1 = ranking provisions exist and 3) Sanctions	4 =	Strong candidate quota	1.0
0 = No sanctions; 1 = fees or cut in public funding; 2 = reject list <b>VOLUNTARY QUOTA</b> = number of parties with voluntary quotas with seats in national parliament IDEA ( <a href="http://www.quotaproject.org">www.quotaproject.org</a> ), 1990s till 2015	5 =	Strong candidate quota	1.0
	6 =	Strong candidate quota	1.0
		<b>VOLUNTARY QUOTA</b>	
	No party with voluntary quota	No voluntary quotas	0.0
	One party with v. p. q.	Few voluntary party quotas	0.3
	Two parties with v. p. q.	Some voluntary party quotas	0.6
	Three parties with v. p. q.	Many parties with v. p. q.	1.0
		<b>PROPORTIONALITY</b>	
<b>PROPORTIONALITY</b> = Gallagher Index (Index of disproportionality between vote and seat distributions according to the Gallagher “Least Squares Index” for all parties in general election) No own calculation Democracy Barometer (available at <a href="http://www.democracybarometer.org/dataset_en.html">www.democracybarometer.org/dataset_en.html</a> ), 2000	0.00–1.99	Strongly proportional	1.0
	2.00–4.99	More proportional than disproportional	0.6
	5.00–7.99	More disproportional than proportional	0.4
	8.00–47.0	Strongly disproportional	0.0

## NOTES

1. See [http://ec.europa.eu/justice/gender-equality/gender-decision-making/database/politics/national-parliaments/index\\_en.htm](http://ec.europa.eu/justice/gender-equality/gender-decision-making/database/politics/national-parliaments/index_en.htm) (23.12.2015) and IPU, 2000-2014 (without Armenia and Azerbaijan).
2. Comparative data for elected bodies in “conventional politics” is more readily available than information on participation in civil society and social movements, and this has resulted in a certain bias also in gender research.
3. As Drude Dahlerup (1988) had supposed quite early, a critical mass (e.g. of female representatives) is not as important as critical actors or critical political acts for women (overview in Childs and Lovenduski 2013).
4. There are various other forms of QCA (csQCA, MVQCA, TQCA, gsQCA, and CNA) for different applications.
5. A condition is necessary if an outcome cannot occur without its presence. There have to be apples on a tree that it is possible that they may fall to the ground.

6. A condition is sufficient if it always leads to a wished outcome. Gravity has to be in place in order that an apple falls from the tree to the ground.
7. “The basic idea is that if an outcome D is present in a case displaying A, B and C as well as in another case which displays A and C, but not B, then it does not make a difference for the occurrence of D whether B is present or not. Subsequently, upper case letters are used to indicate that a feature is present, while lower case letters denote its absence. FsQCA uses the logical operators ‘or’ (+) and ‘and’ (\*) of Boolean algebra. Hence, if we observed that  $A*B*C+A*b*C \rightarrow D$ , then this can be minimized to  $A*C \rightarrow D$ ” (Thomann 2015b, 185).
8. See <http://www.r-project.org> and <http://www.compass.org/software.htm>.
9. The solution term SUFFRAGE has a high coverage and consistency; however, it is a trivial solution.

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# Successes and Failures of Electoral Gender Quotas in a Global Perspective

*Jutta Hergenhan*

## 1 INTRODUCTION

Gender quotas are used in many European countries to increase the representation of women in politics. Voluntary party political quotas as well as legislated candidate quotas have led to a higher number of women in elected assemblies and subsequently also in executive offices. While quotas were already introduced in the North of Europe in the 1970s, Southern and Central European countries have, in recent years, also introduced electoral gender quotas. With the parity law in France in 2000, a new and particularly far-reaching measure was introduced, aiming at a 50/50 % representation for both sexes on all main levels of political representation. Worldwide, 110 out of 196 countries use gender quotas today: 57 countries have legal candidate quotas applying to all lists of party nominees; in 32 countries, political parties apply voluntary quotas, and 21 countries have reserved seats for women in parliamentary assemblies (Norris and Dahlerup 2015, 25–26). Despite the growing number of women elected to parliaments throughout the last 30 years, the overall

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proportion of women in lower house national parliaments has not increased to more than 23 % worldwide and 26 % in Europe. Only the Nordic states have gender-balanced parliaments with an average share of women at 41 % (Inter-Parliamentary Union 2016a). The discrepancy between the widespread implementation of gender quotas and their limited overall output raises the question of the actual benefit of quotas. Which types of electoral gender quotas are effective, under which conditions and in which contexts? Are quotas themselves responsible for a high representation of women in parliament, or are other factors more important?

Throughout the twentieth century, the Nordic states held the highest rates of women in Parliament. From 2003 on, non-European countries took over the leading positions of women's representation in Parliament. Rwanda, Bolivia and Argentina climbed to the top of the list. Rwanda has been holding the world record for women's representation in parliament since 2003, with 64 % women in the lower house today. How can this ascent be explained? Is it due to a certain type of quota measures, or rather to changing conditions encouraging women to act in politics? What happened in Rwanda for the country to become the champion of women's parliamentary representation worldwide? How far is this success due to gender quotas?

## 2 THE STRUGGLE FOR WOMEN'S POLITICAL REPRESENTATION

To take part in political decision-making, women had to pass two decisive hurdles: They had to obtain the right to vote, and they had to obtain the effective possibility to be elected. Both steps required discursive disputes and resolute political action. This paper wants to take a closer look at the second step: women's access to political representation, understood as the participation in legislative and executive power (Hardmeier 2004, 150), and in particular at the use of gender quotas as an instrument to reach this goal.

The first country to enfranchise women was New Zealand in 1893, followed by Australia in 1902. In Europe, Finland was the first to introduce women's suffrage in 1906, followed by Norway in 1907 (eligibility) and 1913 (vote). By 1950, in almost all European countries women had the right to vote and to be elected. Switzerland completed the picture in 1971, Portugal in 1976 and Liechtenstein in 1984 (Bereni et al. 2008, 153; Achin 2005, 45; Inter-Parliamentary Union 2016b). There was, however, not one country in Europe, where equal voting rights led to anything remotely



approaching an equal representation of men and women in political office. As men had obtained the right to vote in most countries long before women, a political culture dominated by men reigned in the sphere of the state and of public life by the time women finally obtained the formal right to participate in political life. It had been a common understanding that men were supposed to represent women and children, and, as a result, women's participation in political life was not generally recognized even after their enfranchisement (Hardmeier 2004, 149; 151). The number of women in parliaments and in governments therefore remained very low in all European countries.

As a general trend, it can be observed that the first countries to enfranchise women were also those, which later achieved high numbers of women elected to political office—although this did not happen automatically. In Finland, women already made up 10 % of the seats in parliament during the first elections in 1907. Subsequently, the country remained on the highest level of women's representation worldwide until the beginning of the twenty-first century. In the other Nordic countries, however, women's representation stagnated at a level of 3 % to 4 % during the first 20 years after enfranchisement. It took 70 to 80 years and enormous political efforts to reach a parliamentary representation of 30 % to 40 %. The 20 % threshold was first passed in 1970, by Finland, and in the years to follow by the other Nordic states (Freidenvall, Dahlerup, and Skjeie 2006, 55–58; Bergman 1998, 91–93). France, on the other end of the scale, was one of the latest countries to introduce women's suffrage—in 1944—and it remained among the countries with a particularly low rate of women in elected office. Until 1997, women hardly ever constituted more than 6 % of the members of the National Assembly, and rarely even 3 % of the members of the Senate (Krook 2009, 193; Achin 2005, 88; Scott 2005, 11).

When it became clear that female participation in politics was not a matter of time but a structural problem, discussions about adequate policies in favour of an equal representation of women and men started—in political parties, in women's movements and in elected assemblies in most European democracies. Traditional social gender models, a male-dominated political culture, religious heritages, media behaviour, party political recruiting mechanisms and the lack of gender-equal socio-economic conditions were identified as main obstacles standing in the way of women becoming active in politics (Leyenaar 2012, 110–111; Bereni et al. 2008, 170–174; Hardmeier 2004, 154–160; Inglehart and Norris 2003, 49–71; Hoecker 1998, 78–85). In many countries, the demand for

positive action in favour of women's political representation was raised. As a consequence, a large range of measures to promote women in politics was invented, amongst them different types of electoral gender quotas.

Gender quotas are common practice today, but they have been highly controversial from the very beginning. There were doubts about their legitimacy and their compatibility with the egalitarian values of liberal democracies. In France in particular, electoral gender quotas were considered to be incompatible with the fundamental principle of equality of all citizens before the law, which is considered to be the highest value of the French Revolution. As a consequence, the Constitutional Council overruled a legal gender quota of 25 % for municipal elections in 1982, because it would have "undermined universal suffrage, divided citizens according to inadmissible 'categories' and introduced new forms of discrimination" (Scott 2005, 1, 43; Baudino 2005, 87–91). Demands for an adequate representation of women have been based in general on the conviction that women have particular interests and needs which differ from those of men, and that "the variety of women's interests does not refute the claim that interests are gendered" (Phillips 1995, 68). Therefore, women have to be present in places where decisions are made, in order to represent women's interests and needs. Anne Phillips argued in favour of a "politics of presence" with the argument that: "Neither needs nor interests can be conceived as transparently obvious, and any fair interpretation of either then implies the presence of the relevant group" (Phillips 1995, 73). She put forward three main cases for gender parity: the justice argument, women's interests and a revitalized democracy (Phillips 1998, 229–239), which were important for activists in their political struggle for quotas.<sup>1</sup>

It has furthermore been discussed whether quota regulations are an adequate way to create gender equality in politics. Gesine Fuchs and Beate Hoecker developed the model of the "Magic Triangle" to explain the political participation of women. In their model, institutional factors are one out of three sides of a triangle, alongside socio-economic factors, as well as political culture and socialization (Fuchs 2006, 240). According to this model, a high political participation of women can best be achieved when improvements on all three factors are effected. Quota regulations in political parties and parity regulations for electoral candidate lists can have a conducive impact on women's political participation, coming from the institutional side of the triangle. At the same time, increasing the number of female politicians by quota regulations can have a positive impact on the political gender culture (Fuchs 2006, 254–255). Doubts about the

effectiveness of quotas in changing male-dominated political life, or even increasing the number of women in elected office are, however, persistent. Indeed, some quota regulations did not show the desired effects. This was the case when the chosen quota system was not in compliance with the electoral law, when rank orders regulations were not strictly alternating, or when there were no sanctions foreseen. When quotas are conceived in an appropriate way, they may, however, lead to the intended results. The French parity regulations for local, departmental, regional and European Parliament elections, or the Belgian and Spanish legal quotas are examples of fast-track quota solutions that considerably increased the number of women in elected bodies (Freidenvall and Dahlerup 2013, 12–13; Hoecker 2013, 126–127; Dahlerup and Freidenvall 2011, 21–28; Bereni et al. 2008, 178–179; Lovenduski 2005, 98–104).

Beyond questions of legitimacy and efficiency, there were doubts about the impact of gender quotas on the substance of politics relevant to women. It was extensively discussed whether an increase in the number of women in elected office (descriptive representation) would lead to more gender equality policies (substantive representation). “Descriptive representation” refers to the conviction that elected bodies should reflect the social composition of the electorate in terms of gender, ethnicity and other social characteristics. “Substantive representation” denotes the idea that gender-balanced bodies will have an effect on the policy content, legislative outcome as well as on the working climate in decision-making bodies; whereas “symbolic representation” concerns the ways in which individual citizens and various groups of citizens in society feel represented (Dahlerup and Freidenvall 2011, 32).<sup>2</sup> Beate Hoecker underlines the dynamic connection between descriptive and substantive representation, as empirical evidence has shown that a certain number of elected women is necessary to ensure the articulation and representation of interests specific to women (Hoecker 2013, 85–86). The impact of descriptive representation on substantive representation is, however, difficult to measure. It has been analysed in case studies such as those by Gesine Fuchs for the case of Switzerland (Fuchs 2015), or by Sandra Brunsbach for Germany (Brunsbach 2011). Joni Lovenduski and Marila Guadagnini have also been searching empirical proof for the link between descriptive and substantive representation, investigating the connection between critical mass and critical acts, following the example of several empirical case studies from the United States, Canada and Italy. One of their main conclusions is that substantive representation can best be achieved when

women's institutional representatives and independent representatives of women's interests act together: "[...] effective action is most likely to come from a division of labor between autonomous and integrated feminists and other feminist policy actors, including politicians and state officials. [...] for successful political representation, the women's movements need both presence and action in representative institutions to achieve their goals" (Lovenduski and Guadagnini 2010, 190–191).

Despite controversial debates and persisting doubts, electoral gender quotas became a reality in democratic states from 1975 onwards, when women and women's organizations started to fight for quota regulations both inside and outside political party structures. A further important factor for the introduction of gender quotas was the favourable international context for the promotion of women's rights: In 1946, the Commission for the Status of Women was established as part of the United Nation's institutional framework, and "equal rights of men and women" became part of the Universal Declaration of Human Rights adopted in 1948. In the years to follow, the UN Women's Commission supplied data and analysis on women's issues on a worldwide scale, and it established international conventions on women's rights. With the first world conference on women held in Mexico City in 1975, important action and support programmes were established, which created "an international context of legitimation" for gender equality policies on a national level (Lépinard 2007, 30–54). Other world women's conferences followed with declarations and action plans, and other international organizations, as the Council of Europe or the European Union, also served as support frameworks for gender equality initiatives (Dahlerup and Freidenvall 2011, 13–15). Quota regulations became important instruments promoted by these international structures, especially after the adoption of the Convention on the Elimination of all forms of Discriminations Against Women (CEDAW) by the General Assembly of the United Nations in 1979. Today, the influence of international organizations and the role of transnational feminist organizations for the successful spreading of quota policies in all world regions are widely recognized (Norris and Dahlerup 2015, 5–7).

Once the usefulness of quota regulations was recognized by agents in favour of gender equality, practical questions came to the fore: Which kind of quota would be useful and practicable in a certain electoral system? At what stage of the election process should the quota come into play? As many different kinds of solutions have been found to these practical questions, gender quotas vary widely in many detailed aspects. Basically, quotas

are defined by Norris and Dahlerup as “regulatory policies designed to achieve descriptive representation through *rules entailing that the composition of a candidate list or a body must contain a certain minimum number or proportion of a specified category of people*” (Norris and Dahlerup 2015, 12; emphasis in original). It is common to distinguish between three different types of quotas: (a) voluntary party political quotas, (b) legislated candidate quotas and (c) reserved seats. Voluntary party political quotas do not have any legal character. They can be introduced, amended or abolished at any time by any political party according to its respective statutes. They vary from one party to another and can appear in many different forms. Legislated candidate quotas apply, on the contrary, to all political parties taking part in the election in the same way. They can be anchored in the electoral law or in the constitution, or in both of them. Consequently, they can only be introduced, amended or abolished by the legislator. They can exist in different forms on different levels of state organization (national, sub-national, etc.). Reserved seats can be foreseen by the constitution, by election law or by both. Their holders do not need to be directly elected; they can also be appointed or elected indirectly (for further details see Krook 2009, 6–9). Apart from these types of binding quotas, some political parties also employ “soft quotas”, which are meant to encourage women to engage in party politics.

Quotas can furthermore be defined as “women’s quotas” or as “gender quotas”. In the first case, a certain percentage of candidate nominations are reserved for women (the rest can be filled with women as well). In the case of “gender quotas”, a certain percentage of nominations are reserved for each sex (they cannot be filled by persons of the other sex). Quotas also vary according to the stage of the election process at which they are introduced, and to their liability. Monique Leyenaar distinguishes five stages in the “framework analysing women’s pathway into political representation [...]”: voting, recruitment, selection, election and representation. [...] In each step in this process, *individual* and *institutional* factors affect the chances of women becoming involved in political decision-making” (Leyenaar 2012, 109; emphasis in original). Quota regulations also vary considerably according to the electoral system. In the case of a proportional voting system, a certain percentage of women or of persons of each sex on candidate lists can be foreseen, and also the exact places or the order of precedence for persons of each sex can be determined. In the case of a majority voting system, a certain percentage of constituencies have to be reserved for women or a minimum of constituencies for candidates of each

sex can be determined. It can also be foreseen that in each constituency a man and a women have to stand as candidates together. Other variations are possible. In the case of parity regulations, “vertical parity” and “horizontal parity” can be obligatory. Vertical parity regulations foresee parity on a candidate list whereas horizontal parity can be applied either to the heads of candidate lists or to the direct candidates in the constituencies.<sup>3</sup>

### 3 SUCCESSES AND FAILURES OF ELECTORAL GENDER QUOTAS IN EUROPE

The first countries to introduce electoral gender quotas in Europe were communist states under Soviet influence from 1945 on. In the Soviet Republic of Lithuania, in Czechoslovakia or in the German Democratic Republic as well as in other communist states, a certain number of seats in legislative bodies were reserved for women’s organizations, as well as for trade unions or youth organizations. As the political power lay not in the hands of the parliaments, women’s representation was, however, largely a symbolic issue and these gender quotas did not serve to increase the participation of women in politics. On the other hand, the representation of women in these countries diminished considerably when these quotas were given up in the 1990s (Norris and Dahlerup 2015, 15–16; Krupavicius and Matonyte 2003, 82; Marksová-Tominová 2004, 104–105; Antić Gaber 2011, 113).

In democratic European countries, it was only in the 1970s that political parties began to introduce voluntary gender quotas. The first quotas to be used were quotas for candidate lists of political parties in Norway and in the Federal Republic of Germany. In Norway, the Socialist Left Party and the Liberal Party adopted gender quotas in 1975, as a result of internal pressure from their women’s organizations and due to external pressure from party competition. The Labour Party followed in 1983, the Centre Party in 1989, and the Christian People’s Party in 1993. All of these parties adopted a 40 % quota for each sex for nominations for public elections. As a consequence of the thereby created party competition, the Norwegian Conservative Party also substantially increased the number of women candidates. By September 1993, Norway had reached a 39.4 % rate of women in parliament and subsequently held, together with Sweden, the top position of the world ranking list (Freidenvall, Dahlerup, and Skjeie 2006, 71–72; Matland and Montgomery 2003, 33; Inter-Parliamentary Union 1997).

Voluntary party quotas have also shown significant results in other European countries: The Netherlands passed the 40 % threshold of women in parliament in 2008 due to voluntary party quotas. In Germany, the proportion of women in parliament rose from 8.5 % in 1980 to 36 % today, due to voluntary quotas used by most political parties in a mixed electoral system. Introduced at its formation in 1980, the German Green Party used the “zipper system” for nominations to candidate lists. This means a strict alternation of women and men on electoral candidate lists. The odd numbers are reserved for women, including the first place. Women can also be placed on even numbers. The post-communist Left Party (formerly named PDS) has also been practising a strict parity quota as of its foundation in 1990. After intense debates, the German Social Democratic Party and the Christian Democratic Party followed with their own quotas in 1988 and the 1990s, respectively. These were, however, not as far-reaching as the parity quota of the Green Party and the Left Party (Geissel 2013, 201–205; Hoecker 1998, 84–85). Despite the fact that voluntary party quotas helped to considerably increase the number of women in parliament, Germany never came close to a gender-balanced parliament. This is presumably due to the fact that—unlike in the Nordic countries—there are a lack of adequate gender equality policies in the socio-economic field and a persisting male-dominated political culture despite having a strong female chancellor since 2005.

As voluntary party quotas proved to be a useful instrument, they were applied by a growing number of political parties in a growing number of countries from the 1980s onwards. Since then, political parties have been adopting or amending quota regulations (for an overview see Krook 2009, 229–235). Today, in 16 out of 30 European countries, at least one political party uses electoral gender quotas. These quotas, however, vary strongly according to the electoral system, to the extent of their obligation, and to their output. Research has shown that the success of electoral gender quotas depends highly on the social, political and institutional context of their implementation (Freidenvall and Dahlerup 2013, 14–20; Krook 2009, 216–226; Lovenduski 2005, 98–99). Many political parties have, therefore, adjusted their quota regulations, and in some countries, quota regulations were adopted by law or even by constitutional amendment. France amended its constitution in 1999 in order to pass a parity law in 2000. Italy had to amend the constitution in 2003, as the Constitutional Court had declared legislated quota regulations illegal in 1995. Today,

Italy applies legal quotas for European and regional elections, but not at the national level. The Italian Democratic Party practises a voluntary 50 % quota with strict alternation on candidate lists for all elections (Freidenvall and Dahlerup 2013, 7–8; Guadagnini 2005, 138–147; Quota Project–Global Database of Quotas for Women 2015).

Legislated gender quotas are applied in eight European countries (Belgium, France, Greece, Ireland, Poland, Portugal, Slovenia, Spain),<sup>4</sup> and they have shown considerable success in several cases. France started with its parity law in 2000. Belgium followed in 2002 with its own parity law, after a first gender quota act from 1994 had proved useful but insufficient (Meier 2011, 61–63; Leyenaar 2012, 116; Meier 2005, 43–45). Slovenia introduced legislated candidate quotas in 2004 (Antić Gaber 2011, 115–118), Portugal in 2006, and Spain voted a law demanding a minimum of 40 % and a maximum of 60 % for each sex on candidate lists in 2007 (Alnevall 2011, 132–133). In each of these countries, several political parties already practised voluntary quotas when their governments adopted legal quotas. The combination of both measures has a positive effect on representation of women in politics,<sup>5</sup> “because it can create a dynamic which opens up the political forum to women more than would have been the case if either party or legal measures alone had been applied” (Meier 2011, 68). Belgium and Slovenia have achieved enormous leaps in women’s representation due to amended quota laws, whereas Spain achieved a major increase due to party quotas in the Socialist Labour Party (PSOE) (Freidenvall and Dahlerup 2013, 12–13; Alnevall 2011, 129–133; Valiente 2005, 178–183–187). In France, legislated gender quotas have shown an impressive effect on all levels of political representation, except for the National Assembly, where a two-round majority system is applied and sanction mechanisms have, until now, shown only a limited effect. The parity law had to be amended several times in order to extend it to more types of elections on different political levels, and in order to make it more efficient (see Achin in this volume).

Despite the success of electoral gender quotas in Europe, only Sweden, Finland, Iceland and Spain hold more than 40 % women in parliament today (Inter-Parliamentary Union 2016a). In most countries with more than 30 % women in parliament, some kind of electoral gender quota is used. Thus, quotas are not a guarantee for success, as the cases of Hungary, Cyprus or Romania show, where voluntary party quotas are practised. These countries hold less than 15 % women in parliament, and the use of gender quotas has not shown any significant effect to increase



this number. Despite a legal gender quota, Ireland also has only 15 % women elected to the national parliament, which might be due to the single transferable vote system applied for national elections (Freidenvall and Dahlerup 2013, 7–10; Leyenaar 2012, 118–119).

Freidenvall and Dahlerup have shown that “the proportion of women elected has increased in particular in countries which have adopted legislated quotas, including Slovenia, France and Greece”. But the difference between countries with or without quotas is not striking: European countries with legal candidate quotas hold 29.5 % women in parliament, whereas countries without quota regulations have an average of 26.2 % women in parliament, and countries with voluntary party quotas only 25.5 % women. Quotas are not even necessary for a high proportion of women in parliament, as the case of Finland proves. It can therefore be concluded that quotas are a useful instrument to increase the representation of women in politics, in particular legal quotas, which are able to produce important leap changes (Freidenvall and Dahlerup 2013, 8–13). Quotas alone are, however, not sufficient and, under certain circumstances, they are not even necessary. The case of the Nordic countries will show that a high proportion of women in politics can be achieved in different ways and that quotas can play very different roles in this process.

#### 4 CASE I: THE NORDIC COUNTRIES

The Nordic countries’ high representation of women in politics is often accredited to their use of electoral gender quotas. This assumption is, however, only partly true as the Nordic states vary significantly in the way in which they have achieved a high proportion of women in elected office. The country with the earliest and over long periods the highest number of women in parliament, Finland, never used any electoral gender quotas. The high level of women in Finnish parliament and in the executive sector is explained by three main factors: (a) by socio-economic factors, such as women’s high general level of education and their full-time participation in the labour market; (b) by the existence of strong and independent women’s organizations; and (c) the structural characteristics of the Finnish political system (Holli and Kantola 2005, 62).

In Denmark, the Socialist People’s Party used quotas between 1983 and 1990, and the Social Democratic Party until 1996. Both parties abolished their quotas when they were not considered to be necessary any longer. During the European elections of 1984, the quota regulation

even showed an adverse effect, putting a man on the second place of the candidate list of the Socialist People's Party, whereas the election by the party had brought four women to the first four places of the list. This was due to the fact that the quota was not defined as a "women's quota" but as a gender-neutral quota (Christensen and Poul Damkjær 1998, 48–49). The strong representation of women in Danish parliament is rather due to a step-by-step increase of women's representation and leadership positions. It is foremost due to the historically strong women's movement in Denmark (Dahlerup 2013, 146–148; Freidenvall, Dahlerup, and Skjeie 2006, 70–71). Today, political parties in only three Nordic states—Iceland, Norway and Sweden—use electoral gender quotas. In these three countries, quotas functioned in very different ways. In Norway, political parties voluntarily introduced electoral gender quotas as a means to increase women's political representation. In Sweden, party political gender quotas were introduced as of the 1990s, when women already held 20–30 % of the parliamentary and local council seats. The aim was to consolidate a high level of women's representation, which was achieved by means of social policies and gender equality policies, awareness raising campaigns and pressure from women's interest groups inside and outside the political parties (Sainsbury 2005, 198–203). The Swedish quotas are therefore "high echelon quotas". They were adopted at a certain stage of a slow but regular development towards equal representation—the "incremental way"—in contrast to "fast-track quotas" which are applied in order to get from a very low level of representation to a state of parity in a short space of time (Freidenvall 2013, 98–101; Freidenvall, Dahlerup, and Skjeie 2006, 55–57). Iceland is the only Nordic country where a Women's Party successfully ran for the national parliament and with that had a striking effect on women's representation on the executive level, on gender relevant policies, and on the established political parties. The country, however, lagged behind the other Nordic countries and only passed the threshold of 40 % women in parliament in 2008 (Styrkársdóttir 2013, 127–136; Freidenvall and Dahlerup 2013, 8).

Sweden introduced quotas at the national level mainly to consolidate a high proportion of women in elected office when it had already achieved that goal by other means. Although the country already introduced universal suffrage in 1921, it took more than 40 years to reach 47 % of women in parliament. The number of women in parliament only started to rise over 20 % in the 1970s, when recommendations were issued by centre and right-wing political parties, and when very moderate gender quotas

where introduced on a local level by the Social Democrats. Since then, the number of women in the executive branch has also increased.<sup>6</sup> The higher representation of women was mainly achieved by the pressure of women's groups within the political parties and in society. From the end of the 1980s onwards, the percentage of women in parliament exceeded 30 %. In 1993, the Social Democratic Party reacted to this by introducing an internal parity regulation for candidate lists. The discussions and demands for quotas had already started in 1928, but it was mainly the political competition of the political parties on the topic of gender equality that led to an increasing number of candidates on an ever broader scale. Gender quotas in the 1990s were introduced when the percentage of women had unexpectedly fallen from 38 % to 34 %, and there was the risk that further success in electoral gender equality might not be achieved (Freidenvall 2011, 140–142; Krook 2009, 109–132). It can thus be concluded that, from the Nordic experience, voluntary party quotas are useful in increasing or consolidating women's participation in politics. However, this can also be achieved without quotas, as the case of Finland shows.

## 5 POLITICAL REPRESENTATION AND GENDER QUOTAS ON A GLOBAL LEVEL

Today, half of all countries in the world use gender quotas in political elections. The highest results in terms of female political representation are reached outside Europe. European countries like Sweden, Denmark, Finland, Norway and the Netherlands had been on the top of the world ranking list of women in parliaments for about 30 years when, in 2003, Rwanda claimed the top position, becoming the first non-European country to topple Sweden from the throne it had occupied for many years. In the following years, other non-European countries entered the top-five of the world ranking: Costa Rica (with 38.6 %) in March 2006, Argentina (with 40 %) in December 2007, Cuba (with 43.2 %) in January 2008, South Africa (with 43.5 %) in May 2009, the Seychelles (with 45.5 %) in September 2011, and Bolivia (with 53.1 %) in November 2014. Rwanda, meanwhile, stayed in the first position with a growing number of women in parliament at each parliamentary election, from 48.8 % in September 2003 to 56.3 % in May 2009 and 63.8 % in 2013. On 1 February 2016, Rwanda, Bolivia, Cuba and the Seychelles held the top four positions and Senegal, Mexico, South Africa and Ecuador the places 6 to 9. European countries like Sweden (position 5), Finland (position 10) and Iceland

(position 11) are no longer the champions of women's representation in Parliament (Inter-Parliamentary Union 2016a).

For Pippa Norris and Drude Dahlerup, the success of non-European countries is a result of the “second wave” of gender quotas. Norris and Dahlerup distinguish three waves of gender quotas for national or federal parliaments on a global level: during the first wave, quotas were adopted by several communist states, but also in Pakistan since 1956,<sup>7</sup> in Bangladesh since 1972 and in Egypt 1979–1984, as well as by a number of political parties in Northern European countries during the 1970s and 1980s. The second wave of gender quotas started with the Argentinian law establishing legal gender quotas in 1991, and the third wave are the amendments of electoral quota laws, in many cases in order to reinforce those laws. These three “waves” of gender quotas roughly correspond to a preference for different types of quotas: The “first wave” was characterized by reserved seats quotas in Eastern European and non-European countries, and to voluntary party political quotas in Western and Northern European countries. The “second wave” favoured legal quotas. It evolved in Latin America in the 1990s, and started in Europe with the first gender quotas act in Belgium in 1994 (Woodward 1998, 18). The “third wave” of quotas is still going on, in Europe and around the world. It is mainly characterized by amendments to party quotas or to legal quotas, in order to improve their effectiveness (Norris and Dahlerup 2015, 15–16; 20–22). Outside Europe, the quota model of reserved seats for women in elected assemblies shows considerable results. In Africa, it is applied in Tanzania, Eritrea, Uganda, and in Rwanda. (Tripp, Konaté, and Lowe-Morna 2006, 112–117). It is therefore interesting to have a closer look at the case of Rwanda. Are reserved seats the reason for the outstandingly high number of women's political representation? Which other factors play a role?

## 6 CASE 2: RWANDA

Rwanda came into the focus of the world public opinion in 1994, when it experienced genocide. Within three months, between 800,000 and 1 million people from a population of about 6.5 millions lost their lives. Around 75 % of the country's Tutsi minority, as well as numerous moderate Hutus were killed by members of the Hutu majority (Dumas 2014, 14; Skaine 2008, 55–56; 98–99). After the conflict, Rwanda profoundly renewed its political structures. As a result of this process, a new constitution was adopted in 2003. In the years to follow, the country became known for the world's highest representation of women in parliament.

As most other countries in Africa and in the world, Rwanda did not have a particularly high level of women in politics until 2003. When the country became a sovereign state in 1961, women and men obtained voting right, but only in December 1981 was the first woman elected to parliament. The first woman to govern the country was Agathe Uwilingiyimana, who served as prime minister from July 1993 to April 1994.<sup>8</sup> In November 1994, directly after the genocide, the percentage of women in the lower house was only 17 %, and the country occupied the 24th position in the Inter-Parliamentary Union's world classification of women in national parliaments. With the new constitution passed by referendum on 26 May 2003, a republican, presidential, multiparty system was established, with a bicameral Parliament consisting of a Chamber of Deputies and a Senate. With the first presidential and legislative elections after the genocide in August and September 2003, women directly obtained almost 50 % of the seats in the Chamber of Deputies and 35 % in the Senate (Skaine 2008, 99). In 2016, the president of the Chamber of Deputies and its secretary general are women. The government counts 12 women out of 31 ministers, one of whom is the foreign minister. The president of the country, the prime minister and the president of the Senate, however, are men (Inter-Parliamentary Union 2014a; Inter-Parliamentary Union 2014b; The Republic of Rwanda 2014).

Research on gender and politics in Rwanda has focused on three major explanations for the particularly high representation of women in Rwandan politics since the end of the genocide:

1. Experiencing the genocide made women see how dramatically political failure can affect them and that it is indispensable to be involved in politics in order to have an impact on the country.
2. As international organizations play an important role in Rwanda's political life, women's organizations used international law and support structures to promote women's rights in their country.
3. Rwanda is accustomed to quota regulations to balance ethnic and regional inequalities. The public opinion as well as decision makers were therefore open-minded towards gender quotas.

Several authors argue that the particular situation of women after the genocide and the consciousness they developed for their particular needs and interests have largely contributed to the strong and active role of women in the transformation process and beyond. Women largely outnumbered men after the genocide, as a higher number of men than

women had been killed. The sexual violence women experienced had many incise consequences for them, such as undesired pregnancies, the loss of husbands and other family members, severe health problems, as well as destroyed economic, social and family structures (Morojele 2016, 14–16; Mageza-Barthel 2015, 2–5; Baraduc 2014, 63–68). Numerous women reconstructed their families and the country's economic and social structures with an enormous commitment, which earned them a high level of public credit. As a consequence of the new gender consciousness, Rwandan women used the post-genocide context to become politically active in several fields vital to them, such as inheritance legislation, rural development and protection against violence. By campaigning in favour of issues central to them and by being elected to political office, women managed to pass the necessary legislation to change their unequal positioning (Morojele 2016, 50–54). This was also supported by the fact that the governing RPF Party<sup>9</sup> made women's interests and needs a central part of their government programme (Fleschenberg and Derichs 2008, 99–100; Tripp, Konaté, and Lowe-Morna 2006, 121).

International factors also played a crucial role in women's successful involvement in the political transformation after the genocide. Rwanda was one of the first UN member states to sign the CEDAW Convention, in 1980, and to ratify it in 1981. In the ten years following the Beijing Women's conference of 1995, Rwanda's government made great efforts to ensure that women had an equal opportunity to access and fully participate in the structures of decision-making in governmental bodies, for example through public awareness campaigns or evening training courses (Skaine 2008, 99). After the genocide, international gender norms served as a discursive and legal support for the adoption of gender-relevant social policies, as well as for the introduction of political equality policies. The impact of women on the transformation of the state relied to a high degree on powerful women's organizations already existing before the genocide, and on an intersecting web of relations between the state and the international community, according to Rirhandu Mageza-Barthel (2015).

With the Constitution of 2003, a proportional representation system with quota regulations for national and sub-national elections was established. The State of Rwanda ensures "that women are granted at least thirty per cent of posts in decision making organs" (Art. 9; The Republic of Rwanda 2003). The bicameral Parliament of Rwanda consists of a Chamber of Deputies with 80 seats and a Senate with 26 seats. In both institutions, 30 % of the seats are reserved for women (Art. 76 and 82;

The Republic of Rwanda 2003). These seats are filled with women by a women-only ballot, through the indirect election by Women's Councils. "Women's Councils at the grassroots level elect women representatives to successive higher administrative levels from the cell level to the sector and district levels, skipping the provincial level, and then to the senate through what becomes an electoral college" (Tripp, Konaté, and Lowe-Morna 2006, 122). From the 80 members of the Chamber of Deputies, 24 are women, elected indirectly by Women's Councils. 53 more members of the Chamber of Deputies are elected by direct universal suffrage through a secret ballot using closed-list proportional representation (Art. 76, The Republic of Rwanda). A women's candidate quota of 30 % applies also to the candidate lists for these national elections as well as to sub-national elections, according to the electoral law amended in 2007 (Quota Project–Global Database of Quotas for Women 2014). This legislative candidate quota applies in addition to the aforementioned constitutional reserved seats quota. The outstandingly high proportion of women in parliament was however achieved because the RPF, followed by the other parties, decided to place 50 % women on the election lists, strictly alternating women and men. "[...] it is the combination of the 30 % reserved seats as well as the 50/50 national candidate list that has given Rwanda the highest representation of women in the world" (Morojele 2016, 29).

To sum it up, Rwandan quota regulations are: (a) characterized by a strong legal anchorage (constitution and law), (b) applied at all levels of election (although not at parity), and (c) correspond to two types of quotas: quotas on candidate lists (directly elected) and reserved seats quotas (indirectly elected). Voluntary quotas by political parties do not exist in Rwanda. As an indirect effect of the electoral quotas, women's representation at all government levels has also strongly increased, and the number of ministers has remained over the 30 % threshold since 2003 (Mageza-Barthel 2015, 117).

How, though, can it be explained that these quota regulations were so voluntarily introduced by the post-genocide decision-makers? A first explanation is that quotas have been a historical part of Rwandan statehood since the time of independence, as the country already experimented with a "quota democracy" reflecting its ethnic and party proportions under its first president from 1962 to 1973 (Mageza-Barthel 2015, 49–50). Secondly, gender quotas became part of the Rwandan post-genocide state because important exiled politicians and members of the armed resistance against the Hutu militias became acquainted with the use of

gender quotas during their exile in Uganda. Their own discrimination experiences, based on ethnicity, might have made these women advocates for quotas when they later held important positions in the RPF or in the government (Fleschenberg and Derichs 2008, 100). Furthermore, “[a] part from the international benchmark, the argument employed within the RPF was that women were *political novices* who needed a level playing field to eventually operate on a par with men. [...] Direct elections appeared less appropriate than indirect elections held through the women’s councils” (Mageza-Barthel 2015, 118; emphasis in original).

Fleschenberg and Derichs consider the renewed political structures with their opportunities and quota regulations for women as an ambiguous achievement. On the one hand, women undoubtedly improved their descriptive *and* substantial representation considerably. Quota regulations in the constitution and the electoral law guarantee reserved seats for women in the parliament and legal gender quotas for candidate lists. The combination of different quota types, however, also leads to different types of legitimation as a parliamentarian, as women parliamentarians on reserved seats are nominated by the political party holding the majority in the parliament, whereas parliamentarians elected on lists have a deeper anchorage in the electorate and therefore a higher democratic legitimacy (Fleschenberg and Derichs 2008, 89–100). Moreover, quotas may also serve strategic interests of the ruling RPF by mobilizing female voters, or in order to establish new clientele networks amongst women by legitimizing the regime in accordance with international norms and standards (Morojele 2016, 24–27; Tripp, Konaté, and Lowe-Morna 2006, 122).

## 7 CONCLUSION

Electoral gender quotas have spread considerably throughout Europe and around the world since the 1980s. Often, they were part of democratization processes or institutional renewal after moments of severe political crises. More than half of all countries in the world currently use some type of electoral gender quotas. Quotas might therefore be considered a success story—were it not for the fact that the average percentage of women in parliaments is still below the 25 % margin. Quotas have nevertheless contributed considerably in increasing women’s political representation, as long as they are well conceived and accepted by their political environment.



Quotas are not necessarily required for a high proportion of women in parliament as seen in some Nordic countries. Gender-balanced parliaments and governments can also be achieved by powerful activities of women's movements outside and inside the political parties. The competition between the Nordic states and between the political parties for a high level of gender equality played a decisive role in this process. Long-term change as practised in the Nordic states is, however, not always possible for other countries, especially if they want to achieve immediate results. Post-conflict situations or changes of the political system can, therefore, offer opportunities to start right away with a gender-balanced approach.

The case of Rwanda shows that a stable representation of women on a high level can be achieved by the anchorage of women's quotas in the national constitution as well as in the election law after a period of political and institutional change. A national and regional quota tradition, as is the case in Eastern and Southern Africa, a strong mobilization of women as well as international support structures are beneficial for the introduction and acceptance of far-reaching quota regulations. The situation in Rwanda is, however, far from perfect, as the political system complies very insufficiently with international democratic standards, and patriarchal attitudes are still prevailing in public and private life.

## NOTES

1. For further positions in the debate on women's interests, women's political representation and the legitimacy of affirmative measures, see Virginia Sapiro and Iris Marion Young, 1998.
2. These definitions are based on Hanna F. Pitkins' concepts of representation, distinguishing between forms of representation in which representatives are *standing for* those represented (descriptive or symbolic representation), and forms of representation in which representatives are also *acting for* those represented (substantive representation) (Pitkin 1967, 61–143).
3. Vertical and horizontal quotas were applied, for example, in Tunisia during the parliamentary elections in 2011 and 2014.
4. On a global level, the first country to introduce legislated gender quotas was Argentina in 1991, followed by several other Latin American countries (Araújo and García 2006, 94–97). In Argentina, legislated quotas drastically increased women's representation from 5 % in 1995 to 34 % in 2003 (Freidenvall and Dahlerup 2013, 13; Krook 2009, 161–181).
5. The proportion of women in the lower house amounts to 40 % in Spain, 39 % in Belgium, 37 % in Slovenia and 26 % in France (Inter-Parliamentary Union 2016a).

6. In 1999, Sweden became the first country to have more female ministers than male with 11 women and 9 men (Skaine 2008, 5).
7. Pakistan and India already experienced reserved seats quotas under colonial rule, based on the Government of India Act of 1935 (Krook 2009, 57–59).
8. Agathe Uwilingiyimana, a moderate Hutu, stood for women's rights and ethnic tolerance. She was a member of the Mouvement Démocratique et Républicain (MDR) and among the first victims of the genocide on 7 April 1994 (Fleschenberg and Derichs 2008, 106–107).
9. The Rwandan Patriotic Front (RPF) is the party of the descendants of the Tutsis exiled in 1960 and of Hutu dissidents (Audoin-Rouzeau and Dumas 2014, 17). It has been dominating the political life in Rwanda since the end of the genocide.

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PART V

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## Conclusion

## Targeted Measures Versus Change of Political Culture: How Can Gender Equality Best Be Achieved?

*Barbara Holland-Cunz*

Bringing our challenging essays together in a final discussion is a formidable task. The three fields of expertise which we have gathered together are not a perfect representation of the three points of the “Magic Triangle” as described by Gesine Fuchs and Beate Hoecker.

Our chapter on “Gender equality in the economic sphere” represents the top corner of the triangle, dedicated to socio-economic factors. The chapter on “Gender equality in the realm of the family” represents the right corner, political culture, but also overlaps with the top corner. Finally, the chapter on “Political representation” fits perfectly into the left corner, best described as being the corner concerned with institutional factors in the political field (Fuchs 2006, 240, 255).

The authors provide diverse and sometimes conflicting diagnoses concerning our original question regarding the relationship between long-term changes in connection with political culture and the established fast-track policies (especially quota systems), and how the two relate to

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each other today, after one and a half decades of innovative European gender equality policies.

I will therefore try to bring to the fore those aspects which are not hampered by controversial findings and will refer, for my analysis, to those puzzle pieces which are similar or even analogous. The resultant deliberations could, naturally, only be considered preliminary findings: they follow the main phases of the policy cycle, ideally yet concisely, into the phases of problem definition, agenda setting, decision-making, policy implementation and policy evaluation.

## 1 POLITICS OF VISIBILITY

Many of our authors describe, at more than one point in their analyses, the central role played by feminist actors in the field of gender policies, where demands are made for equal rights, equal participation and recognition for women and their work. The actors are national women's movements, international non-governmental organisations (NGOs), feminists in trade unions and policy agencies, civil societies, European and global women's networks, UN women, women in party politics and prominent individuals. Feminist movements and civil societies are those places where the ideas are developed, politically incorporated, interpreted and—at a later stage—institutionally anchored (see also Beckwith 2016; Ewig and Ferree 2016). None of the innovations, which have been addressed in our book originated within state arenas, even when the specific outlines of the reforms were developed in the state arenas. The civil-society contents are interpreted in institutional procedures and “languages”. The decisive part played by non-governmental feminists in social transformation and reform processes is reflected in Jutta Hergenhan's considerations, which point to the crucial role played by committed, unencumbered women in the process of social founding. In all politics of visibility, we find individuals' demands for justice mixing unavoidably with their credibility. Francesca Bettio also documents the initiatives of feminist activists in the creation of successful ideas for reform: “Mobilizing women rested at the core of this strategy” (Bettio in this volume).

## 2 POLITICS OF FRAMING

The success of the transformation and implementation of civil society demands in state reform policies is due, essentially, to the discursive framing. The importance of this aspect cannot be overstated and can be seen in the work of Roland Erne und Natalie Imboden, who look at the use of two

different policy frames (anti-discrimination versus unfair competition) and analyse the success of the one in relation to the other. Erne and Imboden elucidate: “The implementation of a particular policy is often determined less by its own characteristics than by the context of its conception” (Erne and Imboden in this volume). In spite of “women’s groups higher levels of access and mobilisation in the political process”, the strength of political activity was not the deciding factor for success, but rather the structure of the frames of reference.

The corporatist frame “fair competition” was successful because it interpreted the political conflicts as neither a class conflict, nor a distribution conflict. In comparison, the liberal frame “anti-discrimination” evoked numerous conflicts and created great difficulties with regard to the willingness to accept change and negotiation. Erne/Imboden therefore suggest “reframing gender equal pay policies to make them more acceptable” (Erne and Imboden in this volume).

Sophie Rouault’s considerations go somewhat further. She emphatically opposes an underestimation of symbolic policies (Rouault in this volume), easily recognisable by the policies regarding women on boards. Rouault states that: “symbolic policy (reforms) can indeed be without teeth (in regulative terms) but can nevertheless provoke significant learning effects (in cognitive terms)” (Rouault in this volume). In this way, this policy form contributes towards the corrosion of cultural stereotypes. With regard to discussions on women on boards, the increasing number and raised visibility of certain “Elite Women” help to improve the belief in the legitimacy of democracy. A quota-induced, visible increase of just a few “Top Women” might increase the democratic feeling towards integration of all women and quite possibly improves the chances for a policy that will, in the long run, be beneficial to all women. With Erne/Imboden and Rouault, one could, in the extreme, claim that the discursive framework seems to be of a greater influence on the success of a reform than civil society and state power relationships; framing as the creation of a cognitive interpretation system determines the success of the implementation.

Murray Edelman’s famous approach regarding symbolic politics (Edelman 1971) underpins this thesis. Edelman writes: “Meaning is basically different from information and incompatible with it. Meaning is associated with order—with a patterned cognitive structure that permits anticipation of future developments, so that perceptions are expected and not surprising” (Edelman 1971, 31).

This central thesis points out that the meaning and expectability attributed to an event/process is of more importance for the acceptance of political actions than the informative value of the message or its political statement. To put it pointedly: “perceptions”, “political beliefs”, and “non-empirically based cognitions” (Edelman 1971, 31) have a clear advantage over empirical information with regard to the power to interpret reality, understand it and finally make it acceptable. “In these terms a symbol can be understood as a way of organizing a repertory of cognitions into meanings.” (Edelman 1971, 34). The means, or even the art, of “framing” political conflict information plays a decisive role in the political resolution of conflicts. “Symbolization imposes some degree of structure upon a repertory of cognitive elements” (Edelman 1971, 41). The creation of a cognitive structure that brings order into the political world is a prerequisite to political success as this process can even bring about “acceptance of an outcome he does not like” (Edelman 1971, 45). With this in mind, Edelman even goes as far as to maintain that “only mass cognitions that are noncontroversial are easily changed” (Edelman 1971, 47).

How well Edelman’s observations fit in with the results obtained by our authors is easily recognisable. The latter clarify the superiority of non-conflicting, convenient political frames versus controversial empirical information and political power relations.

If one considers Edelman’s thoughts with regard to how strategic reform can be implemented, then the following comes to light: The symbolic frame of a political measure must fit into, or at least adhere to, the “patterned cognitive structure” in order to be accepted. Only then will it be possible to implement successfully a reform such as a quota system. This, in turn, creates new cognitive patterns, which filter through and alter the political culture. Seen from the viewpoint of political theory we have a process that oscillates between long-term changes to the political culture, and concrete, short-term measures. Neither of the two levels can be identified with certainty as the original one. Successful framing rests, therefore, on base assumptions which are already rudimentary anchored in political discourse (for instance, equality of men and women, justice as a democratic opportunity structure), links them, goes a step further and incorporates additional basic assumptions, which give rise to further innovations in the next politically strategic step.

This is the means by which societal transformations can be generated.

This thesis is supported by the opposite pole—due to the negative experiences of many feminist activists, that declining involvement can lead to

serious setbacks. Activists, and social movements, who, due to negligence or other reasons, leave the oscillating movement (culture/political measures/altered culture), place the success of the entire process on the line. Sustainability is, therefore, one of the conditions for success, as a plateau, once reached, can only be maintained with continuous development. *Stagnation provokes regression.*

Symbolic politics and the politics of framing are, as a result, far more meaningful than implied by the current research findings on fast track and its transformative impact (see also Lombardo et al. 2016).

### 3 POLITICS OF FACILITIES

Those of our authors (Francesca Bettio, Sigrid Leitner, Diana Auth/Hanne Martinek, Cécile Guillaume, Dorota Szelewa) who deal with the material prerequisites for gender equality, have clarified that, and what, financial, temporal and institutional resources must be made available in order to ensure the realisation of equal opportunities for women/mothers and men/fathers in both the familial and social life. All relevant reforms over the last 15 years that have made reconciliation more accessible and practicable (parental leave regulations with generous wage-replacement, better chances for female labour market participation, recognition of unpaid care work and benefits for care work, daddy months, parental sharing, etc.), contribute directly to the democratising of democratic societies. They do this by increasing the possibility for women to participate in both the political and economic sectors and thereby guarantee the future viability of democratic societies. This has, however, not succeeded convincingly despite the “good” intentions in many European countries. The diversity of measures has given rise to significant differences, on a national level, in friendliness towards women and families.

There are, despite this, still definable similarities. Bettio illustrates that “empowerment from above” und “empowerment from below” (Bettio in this volume) must complement each other, especially in times like that of the global financial crises which took place at the end of the first decade of this century, which changed reform arguments and the reconciliation approach’s chances for success. Like Erne and Imboden, Bettio is also sceptical with regard to the frame “anti-discrimination” and to the estimations of the success of the politics of facilities: “something went wrong with design and implementation of reconciliation policy” (Bettio in this volume); parental leave should be designed differently today (Bettio in this volume). Bettio demonstrates

how the experiences with the most diverse and manifold instruments of reform should be used as a guide for current reform models. In order to prevent the very thing that forms the decisive base for societal transformation—the politics of facilities—from becoming a boomerang for women’s politics, modern reform policies will have to balance out frames, designs and tools of reconciliation policy somewhat differently. “The crisis is partly to blame but it is not the only factor involved” (Bettio in this volume).

Bettio points out that only the periodic, diligent and comparative evaluation of the implemented reforms can result in pan-European progress for women.

Diana Auth und Hanne Martinek are likewise interested in finding a “good”, reasonable solution. Auth and Martinek’s main findings, that “the more mothers work, the more fathers participate in childcare” and that “the birth rate can only be increased by fostering women’s employment” (Auth/Martinek in this volume), make it clear that there is a strong correlation between a progressive women’s policy, and a both progressive and pro-natalistic family policy. In contrast to anti-feminist logic, which claims that the employment of women leads to a decline in the birth rate, exactly the opposite is true. Greater gender equality in the division of housework and employment has a positive effect, not only on both forms of work, but also in increasing the birth rate. With this in mind, all of the instruments of the “politics of facilities” seen here are basic necessities for ensuring the success of reforms that deal directly with the activities of women in the political field. The sustainability of all other instruments cannot evolve without the politics of facilities.

This makes the politics of facilities the strongest foundation for cultural change, particularly when it takes place without coercive measures by the state, but rather works purely with positive incentives (e.g. the daddy months). We thank Sigrid Leitner for the framework of political reform, used not only in this field as a means of scientific measurement, but also by our authors.

#### 4 POLITICS OF TRANSLATION AND STATE ARENAS

When performing an ambitious gender-equality policy analysis of public policies, “the State” cannot be regarded as a homogenous block, but rather as a multitude and variety of political arenas (Pringle and Watson 1992), which work both with and against one another on the institutional realisation and implementation of political demands. The translation of

civil concerns into institutional policies is undertaken by women's NGOs, engaged as lobbyists, pro-feminist groups within the parties and the femocratic actors inside state arenas, whose direct administrative task lie in the translation and adaptation (e.g. women's agencies). The close cooperation between autonomous and state feminist actors is therefore essential, but does create constant conflicts, as the civil contents cannot be translated into state patterns without losses.

Since the 1990s, researchers have used the term "state feminism" for this pro-feminist governance (McBride Stetson and Mazur 1995; McBride and Mazur 2016). State feminism corresponds with a strong form of state intervention, which appears, when seen from a liberal perspective, as state paternalism/state maternalism, but is, from a feminist perspective, crucial to the enforcement of gender equality policies. Dorota Szelewa has given an impressive description of the experiences in Eastern Europe after the fall of the Berlin Wall, with the forms of state withdrawal and the consequences for women's policies. The aim here is not to praise the former socialist state with its clear focus on women-friendly benefits. Szelewa nevertheless notes: "transformative change of the policy model from implicit to explicit familialism" (Szelewa in this volume). Even when femocratically organised states appear to be paternalistic, this type of fundamental government structure is, from a gender equality perspective, vital for social progress. The tension between state feminism and the bureaucratisation of feminism cannot be dissolved in one of these sides. It must be noted, however, that gender equality actors are now positively inclined towards the state.

## 5 STATE FEMINISM AND CONSERVATISM

As recognisable from the classic policy cycle, the state needs, with regard to its numerous arenas, the political impetus to come from outside (feminist movements, civil society) in order to become active with regard to women's policies. Over the course of the implementation, advocates (mainly from within the political parties) will be needed who can take both external demands and those generated from below, accept and incorporate them as their own in order to press ahead with the translation of the programme. Over the course of this "translation and implementation" the original demands are often modified, the "frames" as it were, are reprogrammed. A number of authors (Catherine Achin, Sophie Rouault, Roland Erne/Natalie Imboden, Francesca Bettio) describe, quite impressively, this process. Catherine Achin proves that the successful anchoring

of the radical, innovative parity law lies mainly with the fact that the supporting arguments stem from a completely different discourse. The political advancement is based on conservative images and concepts: arguing in terms of communitarianism instead of universalism, stressing the differences between the sexes, renewing the traditional gender order, advocating ideas of female purity in the arenas of parity, performing femininity instead of professionalism (Achin in this volume). In France, this state conservatism enabled the embedding of a revolutionary project. Achin summarises with utter clarity: “As in other societal sectors, women have been allowed to enter the political profession only in positions where they are supposed to perform their “feminine nature“ and where they can implement the stereotypical qualities attributed to their sex...” (Achin in this volume). This brings with it, however, the danger that women “seem to always be either “too feminine” or not feminine enough” (Achin in this volume). There seems, at this time, to be no alternative solution.

Rouault makes it clear that not only conservative discourses but also conservative protagonists can contribute to the acceptance and opportunities to enforce political innovations in the field of gender equality. This applies to voluntary approaches as well as those instruments, which are and should be equipped with sanctions. The method that currently seems to ensure the highest chance of success is the anchoring of gender equality via a conservative framing. It corresponds exactly to Edelman’s thesis that social transformation is only possible when drawing from shared convictions. Edelman (and to a certain extent also Pitkin) provides the argumentative basis for the interpretation of the symbolic framework of successful reforms: in order to gain social acceptance for far-reaching transformation, the proposals for change must be packaged in an uncontroversial, coherent frame, which stands in accord with conventional thinking. Reform proposals and socially rooted perceptions of “the World” must be in accordance with one another.

Discourses of gender equality seem, at present, to be best enforceable with difference-feminist arguments. With this in mind we can, with Bettio and Achin, assume that we will bear witness to a conservatively inspired but far-reaching feminist revolution. It is predictable that in the coming years, reforms in gender equality have to be ambivalently evaluated. Successes must be expedited with arguments, which can also symbolically precariously anchor those successes.

Conversely, the thesis of the success of conservative, pro-feminist parameters of argumentation can also be verified. Hoecker (2013, 138) points out that, in an anti-authoritarian sense, the European population supports

difference-feminist arguments. 59 % of all European women and men (EU 27 2011) agree with the statement: “The political world is dominated by men who do not value the skills of women enough”. Obviously, frameworks are successful if they support the everyday political images of “male politics” and “female restraint” and the democratic, political emotion “that is unfair!”

## 6 RE-EVALUATING THE SO-CALLED “MAGIC TRIANGLE”

In conclusion, my considerations deal with the long-standing feminist preconceptions, which will be placed in a critical relationship to current research results, in order to re-evaluate the first in the light of the second. Gesine Fuchs has undertaken the challenging task of testing her own theses against the background of current knowledge. At first glance, Gesine Fuchs and Christine Scheidegger arrive at contradictory results as, depending on the formulation of the question and the country selected, the comparative research does not seem to deliver clear results. The socio-economic variables seem to have the least influence on the increase in participation rates. Even the year of the introduction of universal female suffrage, accepted until now as a crucial date, is losing influence over time (Fuchs and Scheidegger in this volume). The institutional factors, especially legislated quotas, are significant and even crucial (Fuchs and Scheidegger in this volume). This result can, however, show disparate outcomes, depending on the type of national electoral system: “countries with a good electoral proportionality and voluntary party quota do not need legislated quotas” (Fuchs and Scheidegger in this volume). In conclusion, Fuchs and Scheidegger insist nevertheless on the importance of socio-economic and political-cultural factors in delivering an explanation regarding the increase in the participation of women and, as with Bettio, hope for further clarification through future research. Our authors make it clear that the necessary, thorough and scientific evaluation of the reform opportunities and successes has only just started. We are standing at the beginning of this process and that, to a far greater extent than we originally thought (see also Krook and Schwindt-Bayer 2016; Childs and Lovenduski 2016).

## 7 STATE FEMINISM AND SOCIETAL ANTI-FEMINISM

In the attempt to renew the relationship between the three corners of the “Magic Triangle” there are certain aspects that, as we now know, need to be taken into greater consideration:



1. The “Magic Triangle” needs to be expanded to non-domestic dimensions: the strength and successes of the global women’s movement, women’s global networks, UN women and European civil societies and institutions. The relationship between national and European, or rather global levels of feminist engagement is currently not sufficiently mirrored in the model. Only civil-societal, feminist commitment will ensure resistance to anti-feminism.
2. To date, the classic feminist notion that there is a critical mass as of which the number of mandates for women would definitely effect a change in political content has not been proven. Therefore, it would be necessary to redefine “critical mass” in a “more-than-descriptive” manner: equality in descriptive representation (Pitkin 1972) is not sufficient; women’s interests and substantive representation do make a difference; they are more than necessary, sufficient requirements needed to anchor the fair chances for participation.
3. The emergence of political resistance to gender equality reforms was, for a long time, largely underestimated. We are, however, currently witnessing the emergence of an anti-feminist political culture throughout Europe (furious criticisms aimed at “political correctness”, the emergence of right-wing populist parties in numerous European states, whose sexist, reactionary agendas are openly stated). It seems to be precisely those measures and programmes analysed in our book, which are promoting strong anti-feminist feelings towards the state and advocates of gender equality producing a backlash today.
4. When re-evaluating the relationship between fast-track solutions and cultural change (Dahlerup and Freidenvall 2003; Hoecker 2013), political culture proved far more resistant to change than previously anticipated. Social reform can be and should be fast-tracked; this by no means signifies, however, that fast-track solutions will actually lead to a change in the political culture. In the relationship between political emotions in political culture and political institutions, it has been shown that the evocation of political emotions is more effective than institutional power structures and verifiable empirical information. With this in mind, the role of symbolic politics is far more important for a successful anchoring of gender equality reforms than previously assumed. In the coming years, governmental as well as non-governmental feminist actors must manage not to lose sovereign interpretation over anti-feminist right-wing

populism. Paradoxically, conservative frames can override reactionary frames and allow reform policy. However, feminists within and outside democratic arenas should cling to their utopian ideals of a post patriarchal society. Hanna Pitkins' (1972, 240) reflections on the concept of representation end with the appeal not to lose sight of the "continuing tension between ideal and achievement" or to view the tension as a "hopeless challenge," even in the face of ever-present adversity. Democracy still needs "engendering"—as Anne Phillips put it in her famous book 1991 (Phillips 1991).

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# Erratum to: From Implicit to Explicit Familialism: Post-1989 Family Policy Reforms in Poland

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