

Overcoming Privacy Preserving Federalism: A multiscalar approach to the Swiss and German shifts in Gender Regime

Olivier Giraud & Barbara Lucas

Olivier Giraud : Research Fellow, Lise-CNRS-Cnam, olivier.giraud@cnam.fr

Barbara Lucas : Professor, HETS, HES•SO Geneva, University of Applied Sciences and Arts Western Switzerland, barbara.lucas@hesge.ch

Abstract :

This contribution provides a comparative overview of the transformation of gender regulations in two federal countries, Germany and Switzerland, drawing upon federalist analysis and gender regime approaches. Both countries have witnessed important legislative reforms towards gender equality from the end of the 1990's. Mobilizing a multiscalar analytical grid, we situate this shift within the broader context of a social historical transformation of gender regimes that articulates changes in the relations between public and private regulation as well as between different territorial levels. We demonstrate how the federalist privacy deadlock, historically characterizing both countries, has been overcome. Nevertheless, in the field of childcare, the multiscalar grid reveals that both countries follow different trajectories towards equality. In Germany, top-down regulation has eventually supplanted bottom-up processes and there is a modest influence of public regulation over the definition of gender roles. Such changes were not achieved via a similar mode in Switzerland.

In relation to gender equality, two federal European countries, Germany and Switzerland, are particular latecomers¹. Indeed, the gender relations in those countries have long been trapped in traditional patriarchal patterns – strong gender specific social roles, weak female labour market participation and conservative abortion regulation. Nevertheless, at the turn of the 21st century, both countries significantly reformed their legislation towards more gender equality. These striking shifts have given way to research in political science², sometimes employing a comparative analysis³. The literature explains these reforms primarily through national dynamics, such as coalitions. However, a focus on the legislative changes at the federal level does not account for the transformation of the overall gender regime⁴.

In this contribution, we extend the scope of analysis by considering the different policy scales involved in driving the dynamics towards gender equality, encompassing the multilevel as well as the public-private dimensions of the regulation of gender. Indeed, in the case of Germany and Switzerland, the federal state was historically compelled to abstain from intervening in the regulation of gender relations. Whilst territorial conflict appeared to be elemental of federal nations, gender divisions were considered a private issue. In such a context, explaining the Swiss and German shift towards gender equality requires an understanding of how gender relations could overcome the deadlocks imposed by a federalism preserving privacy as well as an understanding of the specific forms that these new gender regulations are taking.

To this aim, we define policy scales as the spaces of social interaction that are relevant for

social regulation or policy-making. As such, scales are either primarily inscribed in a horizontal dimension, referring to the articulation of the public and private dimensions of regulation, or in a vertical dimension, referring to the territorial and multilevel dimension of regulation. Such a multiscalar perspective combining the horizontal dimension, typical of the gender regime approach with the vertical, multilevel dimension, as it is developed in the analysis of federalism, is original. In the literature on the regulation of gender, the private and territorial dimensions of regulation have not yet been treated in an integrated way.

Considering the vertical and horizontal dimensions of the gender regime change in Germany and Switzerland allows us to highlight more differentiated trajectories towards equality. In both countries, the transformation of the prevailing gender regime was historically triggered by a bottom up process of deprivatization and centralization of gender issues. Focusing on the case of childcare, we analyse how those transitions eventually differ in their public-private and territorial dimensions. In sum, the German shift addresses a more universal repartition of gender roles while the Swiss reform tends to confirm a differentiated approach. Moreover, we observe a relative homogenization of the gender regime in Germany while the diversity of gender regulation at the local level goes unchallenged in Switzerland.

The article is organized in four sections. In the first section, we present our multiscalar analytical frame of gender regulation. In the second section, we briefly present the German and the Swiss versions of privacy preserving federalism and the most important features of these two federal systems. The third section compares how the deadlocks of privacy preserving federalism could be overcome in both countries by the mid 1980's. The fourth section considers the subsequent changes in regulations in gender regimes. We conclude discussing the value of a multiscalar analysis for both federalism studies and gender regime approaches.

1. A multiscalar approach to gender regimes

In order to grasp the complex systems of formal and informal regulations that structure gender relations in Germany and Switzerland, we refer to the concept of gender regime, «a set of interconnected gender-relations and gendered institutions that constitutes a system»⁵. This concept developed out of the feminist critique of welfare state typologies (mainly Esping-Andersen⁶). Feminist scholars pointed out that the omission of gender in the welfare state literature had blocked the understanding of women's care and domestic work as key contributions to social protection and dissimulated the effects of welfare regimes on women's position both in the labour market and beyond it. Building on this perspective, feminist approaches articulated a critique of the de-commodification thesis of social schemes while theorising the commodification of women's labour⁷. The aim of gender regime as a concept was to expand the scope of analysis from being strictly institutionalist to one including all forms of social influence on gender relations⁸. Recent contributions to the gender regime approach insist precisely on the inclusive character of this concept⁹.

1.1. The public/private dimension of gender regulation

Gender relations are structured through different modes of regulation that may refer to the public and/or private sphere. Hence, a gender regime is characterized by a public-private dimension. The concept of gender regime helps to contrast formal and informal modes of regulations. In this

contribution, we build on such a perspective by considering the public-private dimension as a cross-cutting one. We suggest distinguishing three modes of regulations of gender relations and analyse how the public-private dimension is articulated in each of them¹⁰.

Firstly, we identify the legal frames and public policies which contribute to structuring gender relations. We call this type of regulation institutional regulation. This regulation not only includes what tends to be called feminist policies¹¹, but also employment or pension policies as they influence gender relations. Institutional regulation first refers to the scope of public regulation and questions the legitimacy of state interventions and the definition of gender equality issues as private or public ones. Moreover, institutional regulation refers to the content of legislation or public policy programs that address gender relations in their public-private dimension. Maternalist policies, for example, sustain and legitimize care by the family and especially women.

Secondly, gender relations are structured by the activities of networks of organizational actors with various statuses – public or private (associative or profit organizations). These activities contribute to what we call organizational and cultural regulation. Referring to Evers' work on social policy, we speak of a gendered welfare mix¹². These public or private actors provide for services or products that impact upon gender relations. For instance, childcare services may improve the participation of women in the labour market, while job-sharing initiatives in private companies may facilitate the involvement of fathers in caring. These organizations also contribute to diffusing discourses about gender norms and practices. A women's shelter might, for instance, underline the fact that especially women face violence.

Thirdly, we can speak of social practices regulation, to refer to the social practices through which gender relations are constituted and reproduced in everyday interactions¹³. These activities rely on a shared social knowledge and are embedded in normative conceptions, including those organizing the allocation of gender roles and values between the public and private spheres. In the field of care practices, for example, differences in family values, like the value placed upon maternity, differ across European countries and give way to different gendered care arrangements¹⁴.

1.2. The multilevel dimension of gender regulation

Up until now, the concept of gender regime mostly focuses upon the national level, thereby ignoring the regional diversity typical of contemporary societies. We suggest including the multilevel aspect of regulation while comparing the shift in German and Swiss gender regimes. Therefore, we draw upon studies questioning the impact of federalism on gender equality policies. The Anglophone federal tradition has been analysed quite extensively¹⁵, the continental Germanic one to a lesser extent¹⁶.

From this literature, we know that federalism –as an institution– does impact upon gender equality policies. Political autonomy of the various institutional levels, typical of federal arrangements, provides for opportunities for policy change at various levels. This is a key hypothesis about policy making which is gender equality sensitive in federal contexts¹⁷. Federalism can also be an obstacle to the development of equality policies. More conservative regional authorities can block national progressive policies, and federalism may generate inequalities with regards to equality policy implementation. Recently, the limits of a strict institutionalist approach of federalism have been acknowledged and more complex models have been developed¹⁸. Actors' resources and networks have an impact on the actual capacity of the various institutional levels to influence

a policy domain. As Mahon and Brennan argue: «Federal state architecture is not the definitive factor in determining policy outcomes. Rather, it interacts with other variables, such as feminist mobilization (and counter mobilization), political party strategies, and the partisan complexion of governments»¹⁹.

While the influence of the multilevel repartition of power on policy making is by no means a new issue, applying a territorial scale to informal modes of gender regulation can provide an added value with regards to the federalism literature. So far only non-institutional actors directly related to the policy process have been considered in the federalism literature, but not service provision or cultural regulation.

2. Privacy preserving federalism in Germany and Switzerland

Germany and Switzerland are characterized by the long lasting abstention of the state from any explicit gender regulation. This abstention historically led to a deadlock, as the regulation of gender issues became delegated to private actors. Analogous to market preserving federalism²⁰, one could speak in this case of privacy preserving federalism. This deadlock articulates the multilevel and the public/private dimensions of regulation.

The multilevel dimension concerns the logic of vertical relations between the federal state and important territorially organized minorities. Following Mottier²¹, we must acknowledge that Swiss federalism, but this is also true for Germany, is part of the founding institutions of a nation-state built on the exclusion of women. Hence, «federalism has been so centred on cultural and regional differences that other differences, in particular gender (and to some extent social class) have been “institutionalized out of the political community”»²². The attempt to develop a centralized welfare state that would influence the gender regulation of families and couples triggered a strong reaction by minorities, especially the Catholic one. In this context, subsidiarity was installed as the key-founding rule of the non-intervention of the centre. This rule evokes a preference for small-scale arrangements (with priority given to the local level), and reluctance toward public regulation, with the aim of protecting the individual against state intrusion. In its Catholic version prevalent in Germany and Switzerland, subsidiarity refers to the primary role of family (and social corporatism) in the field of social policy²³.

The second dimension refers to the delegation of gender regulation to private actors precisely in order to moderate the opposition of minorities to any central welfare state regulation. In the context of this Bismarckian type of welfare state prominently governed by unions and business associations²⁴, and influenced by a Christian-Democrat tradition²⁵, the organization of gender roles took the form of the male breadwinner model²⁶. According to that model, men have the primary responsibility to provide for an income and women to care for the family. Therefore, women’s entitlements to welfare provisions are derived from their husbands’.

In this context, the federal reforms towards greater gender equality at the end of the 1990’s in both Germany and Switzerland suggests that this historic deadlock has been overcome. In order to understand this process, we must take into account the fact that it takes place in different federal systems. German federalism is more centralized than its Swiss counterpart²⁷. In Germany, the cultural, mostly religious, cleavages have to a large extent been neutralized by the creation of a smaller Federal Republic of Germany after 1945 in which Protestants and Catholics present equally numerous groups. The federal institutions of the Federal Republic of Germany are also tempered by

the lasting effects of the previously centralized regimes of parties and social movements. Moreover, some key feminist policy domains such as matrimonial law, the regulation of abortion or social policies are federal competencies.

In Switzerland, the growth of the state throughout the 20th century has not transformed the equilibrium of federalism in any comparable way²⁸. The principles protecting minorities continue to play an important role in Switzerland and the decrease in influence of the religious cleavage is replaced by the rise of the linguistic one. Besides the weakness of the federal level, both in terms of constitutional competences and resources, the long tradition of municipal social assistance and the strength of executive federalism contribute to prevent the federal state from intervening in culturally sensitive matters, such as education, family and gender relations. Direct democracy reinforces the power of the cantons, as the transfer of competences to the federal level requires a constitutional amendment that has to be approved by both a majority of voters and cantons. Moreover, direct democracy contributed to compensate for insufficiently balanced power-sharing at the subnational level, as it «allows parties and groups that are not integrated into government responsibilities to bring forwards their claims»²⁹. This strength of the cantonal level, next to the general vivacity of subnational democracy, has retained the attention of political parties and most social movements. At the federal level, those organizations tend to be weakly organized and have a hard time influencing the political agenda.

3. Overcoming the deadlock of privacy preserving federalism

In the context of the Swiss and German federal systems, the delegation of the regulation of gender to private actors has led to a *de facto* marginalization of public intervention in this matter, specifically at the federal level. After 1945, the churches, parties, unions, women's associations all agreed to a clear relegation of women to the private sphere and supported the non-intervention of public actors on the issue of gender regulation. However, in both countries, a bottom up dynamic of deprivatization of gender relations was initiated by local or regional feminist / leftist social movements. Thus, during the 1980's, the emergent values relating to the New Left were either transformed into political parties in Germany, or progressively influenced the positioning of the traditional left and centrist parties, in both countries. Indeed, political parties were an important lever of structuration of the public sphere at the federal level in both countries. Nevertheless, the denial to women of the right to vote represents a specific characteristic of the Swiss case.

In Germany, the relative centralization of the federal system offered little incentive for political actors to initiate any significant change in the domain of gender relations. The most important federal parties did not favour any evaluation of the traditional national gender regime. The Christian-Democratic CDU was at first hostile to any change, due to its active Catholic members, as was the Social-Democratic SPD, due to the traditional focus on men's labour market needs³⁰.

At first, German social movements were similarly failing to mobilize around issues of gender equality. In the aftermath of WWII, German feminists were still supporting the male bread-winner model. However, the eruption of radical leftist women's movements on West-German campuses in the 1960's marked a turning point in the framing of gender issues in public arenas. For those emerging feminist movements, claims surrounding women's emancipation and gender equality became central issues. The exclusion of German women from the formal political arena pushed them to invest massively in local spheres of political action, including local resource networks

on abortion or child-care (Kinderläden), autonomous spaces, cafés, women's collective housing, Weiberräte (women's councils), self-experimentation, education, and self-help groups. These local initiatives eventually constructed local women's public spaces – Frauenöffentlichkeit³¹ – that were important in the deprivatization of gender regulation.

In the federal political arena, the proximity of these innovative feminist groups to the radical and partly violent opposition of the late 1960's in the Federal Republic of Germany initially led to the rejection of these new feminist positions, particularly within the moderate left camp. The liberal party FDP was the first actor to overcome the gender taboo at the federal level in the 1970's. Many of its leaders pushed the agenda of women's emancipation and questioned the traditional definition of gender roles. For example, Hildegard Hamm-Brücher, Secretary of State in the federal Ministry of Education in the mid 1970's, advised young women to be successful in their studies so as to reach important positions on the labour market. In 1983, the entrance of the Green Party into the federal parliament triggered a renewal of the federal political landscape and in two ways led to rendering gender issues public ones. Firstly, the Green leadership tied the theme of gender relations to the values and the political agenda of the New Left. Sexual emancipation, as well as a critique of traditional gender roles and of the family, complemented the goals of socioeconomic emancipation. Secondly, this transformation of the federal political landscape made the federal policy arena more compatible with the previous advancement of the arguments as well as the policy actions taken at regional and local levels. In the aftermath of this renewal, in March 1985, the congress of the CDU claimed to stop «assigning specific social roles to men and to women»³². The SDP had already changed its position on such matters a few years before.

The progressive and rather apathetic conversion of the dominant political parties during the 1980's shows the deprivatization of gender relations in the federal public sphere. This process of publicization is related to an extension of the fields in which gender relations are regulated. This pluralization of the issue turned out to be an important element during the 1990's as federal actors began to undertake concrete action in this domain.

As in Germany, the cantonal and communal levels in Switzerland have been key locus for the mobilization of left parties and social movements in favour of gender equality. Again similar to Germany, specific local/regional public spheres have been the first to be transformed because of these mobilizations. Nevertheless, the institutional context differs, as federal political rights were not granted to Swiss women before the referendum of 1971, fifty-three years after Germany had done so.

During the 1950's and 1960's, in spite of the mobilization to obtain full political citizenship, the Swiss women's movement stuck to a traditional division of gender roles explicitly assigning women to the family as mother and housekeeper³³. It is the new post-1968 feminist movement that contributes to diffuse new services as well as a new representation of gender issues³⁴. The development of women's policy agencies at the end of the 1980's helped to establish this local or cantonal cooperation between the old and new movements. The influence of the new radical movement became apparent in two respects. Firstly, through new groups of women, there was a reactivation of feminist structures in parties and trade unions, advice centres, contact centres for migrant women, and nurseries. Secondly, this movement contributed to reframing private gender issues as a public one. They contested the division and gender hierarchy at work in the family as well as the repressive sexual morality. The new alliance introduced an equality perspective to aspects of labour market and family that were considered to be private so far, and also put abortion

and maternity leave issues on the table.

In relation to privacy preserving federalism, Switzerland had to first catch up in terms of the political rights of women. To this aim, the Swiss feminist movements followed a two-dimensional strategy. Firstly, they opted for a pragmatic low profile and consensual tactics with regards to the publicization of gender issues³⁵. Secondly, they believed in local autonomy and started to focus on both the local and the cantonal level. Indeed, the local and cantonal dynamics had a strong influence upon the construction of the gender issues at a federal level. In 1957, for example, the small municipality of Unterbäch in Vallis organized a (symbolic) political participation of women, against both cantonal and federal authorities. In this context, direct democracy was used by feminist movements in a minority of cantons and in those exceptional cases with a strong cantonal movement (Basle, Bern and Geneva). In other cases, initiatives were launched by left wing parties or youth organizations³⁶. Hence, women's suffrage at the federal level in 1971 was an important victory.

Women's suffrage also influenced the furthering of gender regulation. Following upon the 1971 right to vote, women's lists were set up in the major political parties, with the aim of exerting pressure from within important power structures³⁷. This tendency was encouraged by the to a large extent proportional electoral system. The growing influence of women in the federal arena contributed to highlighting the issue of equality as women mobilized from within political parties and social movements so as to push the federal institutions to act. Therefore, the second significant overcoming of the privacy federalist deadlock can be traced back to 1981, when the federal constitution was modified in order to enshrine the principle of equality between women and men.

The national women's strike of 1991 represents a third turning point in the deprivatization process of gender issues and the legitimation of the federal scale as pertinent for public intervention. The success of this national manifestation of women sparked a move towards a better representation of women in politics and contributed to the radicalization and coordination of women in trade unions, associations and political parties³⁸. This federal dynamic had thus reached the political arena and the normative question of gender equality diffused into a larger scope of parliamentary issues. More particularly, it came to directly challenge the male bread-winner welfare state, a major component of the privacy deadlock of gender regulation. In this context, the vivacity of direct democracy contributed to the extension of national - although segmented by linguistic areas - debates both on gender equality issues and on the legitimacy of federal intervention in such matters.

4. Different paths of gender regime transitions

Following the overcoming of the privacy preserving federalism of the 1980's, the collective regulation of gender relations in Germany and Switzerland has been progressively transformed and strengthened. More specifically, we observe in both countries the development of an institutional regulation of gender equality, with the introduction of women's policy agencies and the development of federal policies. Focusing on the case of childcare, we can see how the German and the Swiss gender regime transitions differ in their public-private and territorial dimensions.

4.1. Towards a federal institutional regulation of gender equality

In Germany, the first concrete step towards the federal institutional regulation of gender equality has been the consolidation of local women's policy agencies by federal level authorities. Inspired by

the local associations or informal groups that had launched doctor's networks supporting women in need of abortion, affordable childcare facilities or «Männerfreie» (no men allowed) cultural activities during the 1970's, local authorities and Länder governments had developed women's policy agencies from the 1980's onwards. The first was founded in Cologne in 1982³⁹. Local and regional agencies were progressively granted public funding from federal public authorities, which subsequently influenced those agencies top-down. In Switzerland, the new equality agenda is promoted by the extra parliamentary Commission for Women's Issues (established in 1976) and by the Federal Agency for Equality Between Women and Men (established in 1988). In contrast with Germany, the latter serves as a model at the cantonal or municipal level. Capitalizing on the favourable financial context, some cantons and municipalities opened similar structures from the end of the 1980's onwards⁴⁰.

Apart from the development of women's policy agencies, significant legislative reforms were adopted in both countries. In Germany, the transitions initiated in the dominant parties - the SPD and CDU - during the 1980's eventually influenced institutional regulations. In 1990, German reunification led to an encounter of the institutional regulation of gender relations pursued by both German Republics and revealed how the West-German situation was retrograde in relation to that of its Eastern counterpart. A few years after reunification, a series of reforms represented an important convergence which benefited the whole country. For instance, the constitutional reform that followed reunification asserts, «the state supports the concrete realization of the equality of rights for women and men and acts against all elements hindering this equality». Marital and parental legislation were also reformed, granting formal equality to men and women (1997). A federal law on domestic violence protected the victim and forbade the violent spouse access to the marital home (2001). Reunification also led to the modernization of legislation on abortion (1998). The domain of social benefits, such as pensions or care, also witnessed change from the mid 1990's onwards.

In Switzerland, the granting of civic rights to women in 1971 marked a period of modernization in the equalization of rights, which emerged as a result of the first wave of feminist demands, but was also accelerated by institutional dynamics. Specifically, the new constitutional article on equality⁴¹ adopted in 1981 addressed gender issues in fields previously framed as private such as the family or work place. This new amendment opened room for federal judicial complaints and a wave of anti-discriminatory reforms that were followed by a federal law on equality between women and men in 1995. Moreover, the matrimonial law and the nationality law were revised and entered into force in 1985 and 1992 respectively. After more than a century of feminist claims against those patriarchal institutions, even the male breadwinner pension system was changed in 1995. During a second reform wave, the scope of public intervention was expanded, reflecting the agenda of the feminist movement emerging in 1968. The new law on divorce (2000), the liberalization of abortion (2002), the subsidy of extra-family day care for children (2003), the automatic prosecution in cases of violence within couples (2004), maternity leave (2004), the inter-cantonal harmonization of child benefits (2004), the legal protection against family violence and harassment (2007), are the most relevant examples of the expanding scope of institutional regulation.

How can we understand this institutional shift? In both countries, the new gender equality issues have contributed towards blurring the traditional partisan lines in federal Parliament during the 1990's. In Switzerland specifically, where party discipline is weaker than in Germany, this led to a partisan realignment of coalitions, which divided both the Right and the Left⁴².

In the case of childcare, the comparable institutional turn can be explained by similar federal political dynamics. In Germany in the 1960's important labour force shortages were addressed by recruiting migrant workers rather than mobilizing the female labour force, whereas in the 1990's the federal state used less acute labour force scarcities to embark on a vast transformative agenda of gender relations⁴³. This change in the socio-economic context, contributed to the emergence of an important debate regarding the demographic decline of Germany⁴⁴, which eventually led to a rapid dismantling of the consensus surrounding the non-intervention of the state in family matters. The support of business associations for the agenda of change broke the CDU/CSU into modernist and conservative camps, which quite rapidly led to a marginalization of the latter. Hence, the SPD federal Ministry for Family embarked in the late 1990's on a coalition with business associations around an agenda mobilizing the female labour force which required the involvement of the state in both parental leave and childcare facilities.

In Switzerland, the support for day-care facilities was continuously blocked at the federal level by the strong opposition of the dominant conservative and liberal parties. The Christian-democratic party was attached to motherhood as being the first social role of women, while the liberal party opposed state intervention⁴⁵. However, in the context of the labour force shortage at the end of the 1990's, women's economic activity became related to economic growth and productivity. While the demographics played a minor role in the debate in comparison to Germany, this shift in discourse followed the new position of the Swiss Employers Association, which openly took a stance in favour of a greater reconciliation of family and work and thus day-care facilities. This, as well as the decline of the Christian-democratic party - which eventually changed its position on these matters - allowed for the formation a new coalition between Swiss socialists, Christian-democrats, the Greens and a small majority of the Liberal Party⁴⁶. In order to promote women's participation in the labour market, the law financing day-care facilities was adopted in 2003.

Hence, the transformation of childcare care regulation in Germany and Switzerland followed the same federal political dynamic and in both countries the federal state becomes involved in this issue. Nevertheless, the adoption of new federal regulations does not challenge the overall gender regime in the same way in the two countries.

4.2. Childcare regulations on the public-private scale

The institutional reform goes further in Germany as it directly challenges the traditional sexual division of social roles, while the Swiss institutional reforms tend to confirm them by maintaining their so-called private character. Hence, the German parental leave reformed in 2007 is now completely de-gendered. It can last 14 months and is much more flexible than it used to be. Significantly, the system now encourages fathers to take leave and care for their child. Moreover, the German scheme called «Allianz für die Familie», has been promoted as a broad framework open to local authorities, companies, associations, and so on. It displays all the economic advantages of a better reconciliation between professional activity and family life. It enjoyed immediate success as German employers saw women as an important reservoir of skilled labour force and actively supported measures pulling women into the labour market.

In Switzerland, in contrast, most of the institutional reforms of the 2000's towards equality do not openly challenge traditional gender roles. As a political compromise, the new law on external childcare subsidies is both limited in time⁴⁷ and in regard to the amount allocated. This contributes to limiting state intervention on this issue. Moreover, such as in the case of the acceptance of

women's political rights⁴⁸, the reform does not question the primary implication of women in the private sphere. The same is true with the late adoption of a federal maternity leave in 2004⁴⁹. Hence, this legislation is both limited and restricted to (working) women: Swiss maternity insurance provides mothers with only 80% of their salary during 14 weeks. In the case of the liberalization of abortion, the debate even contributes towards emphasizing the so-called natural character of maternity for women, defining abortion as an exception to the rule⁵⁰.

The organizational and cultural regulation in the field of childcare has been strongly strengthened in both countries with the increase of extra-family care provisions from the beginning of the 2000's. It is impossible to identify any divergence in the welfare mix of the two countries, as comparable data are not available. However, both contexts are still characterized by the historical importance of non-profit actors in these matters.

In Germany the private services initiated by radical feminist movements have been replicated in other regions of West-Germany from the late 1970's onwards by traditional providers of social services. The three big institutions of social provision, respectively related to the labour movement, the Catholic, and the Protestant churches frequently adapted service provision such as childcare. Kinderläden are still common in Berlin, but very rare in the conservative South. Bavarian agencies generally refused to acknowledge the name of Kinderläden and spoke of Kindernetz - kid's networks⁵¹. Besides the change in names and categories, the opening hours, the availability and financial aspects of those structures contrasted sharply from one Land to another, despite the federal financial incentives granted to the Länder to provide more childcare facilities.

In Switzerland, childcare traditionally appeared as a family - and more specifically a woman's - responsibility that eventually came to be regulated at the local level. Indeed, extra-family care was first advanced at the local level through an increased level of coordination between the Social Democratic Party, voluntary associations and cantonal gender equality offices from the beginning of the 1990's onwards. A change in position of the Swiss Employers Association at the beginning of the 2000's allowed for new alliances and led to an increase in the amount allocated for the provision or subsidiarity of childcare at city level⁵². The federal law adopted in 2003 contributed to doubling the provision of extra-family childcare in the country⁵³.

With regard to the regulation of social practices, we observe the reproduction of traditional sexual divisions in the context of the diffusion of equality norms and the blurring of traditional public/private borders⁵⁴. Women's labour market participation is now quasi a general fact in both countries. The increase of female employment is particularly marked in Germany, revealing a convergence process with regards to women's participation in the public sphere. The female employment rate increased from 59.8% in 2005 to 68% in 2012 while in Switzerland it increased from 70.4% to 73.6%. This evolution of the labour market points towards the growing influence of the international norm of the «gender neutral» worker in both Germany and Switzerland. Nevertheless, the rate of women's part-time employment is very high in both countries and has even increased over the last ten years. In 1991, 49% of women worked part-time while in 2013, the rate reached 58.6%⁵⁵. In Germany, the part-time rate was 46% in 2011⁵⁶, which is 15% above the European Union average, and almost 50% higher in the Western than in the Eastern part of the country. In both countries, men still dominate income acquisition whereas women take care of the children and the household. And in most cases women have to come to terms with little working time and remuneration. This modified male breadwinner model reflects the subordination of the professional activities of women to their familial duties⁵⁷.

4.3. Childcare regulation on the territorial scale

On the territorial scale, German gender regulation followed a top-down process diffused across the territory and, as a consequence, the gender regime appears more homogeneous, while the Swiss gender regulation allowed for stronger local diversity.

In Germany, varied forms of childcare had emerged from the 1970's onwards and had led to a reframing of the nature of provision itself. However, conservative regions had not taken any action that really challenged the traditional division of gender roles. The more recent federal financial incentive system to push for the development of collective forms of childcare is a clear step in such a direction. The recent parental leave scheme that foresees two months of leave for men intends to influence gender roles. However, the Bavarian section of the CDU forced the latest conservative federal government to pass a federal law for a financial scheme, which provided for money to mothers taking care of their small children (Betreuungsgeld). The struggle to impose federal instruments framing gender roles is rooted in the political diversity of the German regions. The appropriation of such federal instruments in these regions by actors of territorialized policy networks and by couples and families has recently led to more homogeneous social practices across the federal territory.

With regards to social practices, it is worth noticing that in the last 20 years, the female labour market participation rate has strongly homogenized all over the German territory. The differential between the lowest female labour market participation and the highest was almost 16% in 1991 and dropped to 7% in 2011⁵⁸. Similarly, the number of children under three benefiting from collective day-care has almost doubled in six years: from about 360,000 in 2008 to over 660,000 in 2014⁵⁹, while the difference between the highest under three care rate among German Länder has decreased from 44 points to 34 in six years, from 2008 to 2014.

In Switzerland, such a top down dynamic is weaker. This is partly due to the strength of Swiss federalism, but also to the consensus democracy with extremely fluctuating coalitions in Parliament. As a result of a specific coalition, the new law of 2003 on extra-family child care updates subsidiarity, preserving the autonomy of the cantonal or local level. It is designed as an incentive which aims to encourage the development of (private or public) day-care facilities at the local or cantonal level. Incidentally, a proposition of the Swiss Parliament to grant more power to the Confederation so as to promote family/work reconciliation, was refused by the 2013 referendum. This constitutional amendment would have forced the cantons to develop extra-family childcare⁶⁰.

In this context, the federal institutional shift towards more equality in Switzerland is noteworthy, but diverse institutional and organizational regulatory dynamics at the cantonal and local level remain evident. In former research, we identified three contrasting types of care policy in Switzerland in the middle of the 2000's⁶¹. A first type favours institutional public regulation, which promotes the participation of a large variety of non-profit organizations in favour of a de-gendered care policy. In the second type, the state is less present and promotes for-profit private regulation that tends to reinforce de facto gender inequality, as well as inequality between women. In the third type, institutional public regulation focuses upon the principle of assistance, with care being perceived as a task which is supposed to be provided by the community and the family but especially by women. These differences are supported by territorially differentiated social practices in Switzerland. In 2004 for example, the activity rates of women strongly differed across cantons. While only 22.4 % of women worked full time in Jura, they were 42% in Obwald. In the more urban cantons such as

Zürich, Geneva, or Basel, the rate was around 32%.⁶² Moreover, the cantonal variation in gender gaps is confirmed by recent research on gender inequalities in (un)paid work⁶³.

Two important differences in gender regime transitions are worthwhile noting in the case of childcare. The first one concerns the extent of transformation in gender roles. Whereas in the German case, there are attempts to introduce a repartition of gender roles federation wide, this is not so much the case in Switzerland. Similarly, whereas the growing importance of federal actors and institutions in Germany can trigger a relative homogenization of the gender regime, in Switzerland, the development of federal regulation tends to strengthen the diversity of gender regulation at cantonal and local levels.

5. Conclusion

In this article, we have provided a comparative overview of the transformation of German and Swiss gender regulations, mobilizing a multiscalar analytical grid. Our approach situates the important federal legislative reforms adopted in both countries from the end of the 1990's onwards in the broader context of a historical transformation of gender regimes. This transformation concerns institutional and organizational regulation, as well as the regulation of social practices. It articulates changes in the relations between public and private regulation as well as between different territorial levels.

Empirically, the comparisons reveal a series of similarities and differences between both countries. Both countries face a double process of deprivatization of equality issues and of centralization of gender regulation. This process eventually overcomes the federalist privacy deadlock and spilled over into institutional reforms at the federal level, which confirm the federal and public involvement in an increasing variety of what tends to be considered private issues. Nevertheless, in both cases the vitality of federalism brings about a true differentiation in regional regulation of gender relations. The current gender regimes are still marked by infra-national diversity, by the influence of private actors and by primarily assigning women to the private sphere. With regards to difference, we can distinguish two types of gender regime transition. In Germany, the progressive publicization of the regulation of gender takes the form of a relative centralization and of a marginalization of private actors. Beyond the program of formal equal rights, the definition of gender social roles now forms part of public federal regulation. The capacity of federal institutional regulations provides for a nationwide integrative frame. In Switzerland, the regime transition appears more discontinuous. Recent federal public regulation has imposed gender equal rights throughout the country and has opened regulation issues, which may also lead to a definition of gender roles. However, Swiss federal regulation so far does not cross this line, as regulation that would frame new social roles has been abdicated to the local and also to the cantonal level. These policy scales are characterized by a high level of disparity in power relations. In most cantons, private actors still play a key role in the regulation of social issues, and progressive coalitions are rare outside part of the urban cantons of the French-speaking and of the German-speaking regions. While gender equality and the importance of women's contribution to the economy have become federal policy goals, the Swiss gender regime appears to be strongly differentiated across territorial levels and with respect to its public-private dimension.

Furthermore, the multiscalar approach provides four contributions to federalist approaches to gender dynamics and to analytical frames of gender regimes. First, it confirms the plurality of the policy scales that matter in the building of gender regulation, both its vertical as well as horizontal

dimension. Second, it reminds us of the high level of diversity prevailing in decentralized federal countries. Third, it demonstrates that local or regional actors influence the federal policy scale if and as they are capable of framing specific issues in a way that can be appropriated and diffused by actors active at another policy scale. This process often implies an, at least partial, reframing of the issues at stake. Beyond institutional and political mechanisms, the dynamics of power relations between the various policy scales are related to the perimeter of the public sphere. When this public sphere is inclusive, the national character of public debates homogenizes frames and possibly, behaviour. Lastly, our contribution demonstrates, against the prevailing diagnosis in terms of short term shifts and changes, the long-term evolution of the primarily social and cultural processes involved in gender regime dynamics.

Nonetheless, our analysis requires further reflection on the processes politicizing social issues. Indeed, the publicization of the regulation of gender relations was triggered by a polarization of values and interpretations in relation to these matters. The breakdown of the consensus surrounding gender issues from the late 1960's has been at least partly addressed in both Germany and Switzerland by the organization of political debates involving parties or associations. During the 1980's and 1990's, these debates shifted the scope to an extended and new consensus on gender regulation. Whereas in Germany, the federal policy scale is clearly the main locus of definition of this new scope, in Switzerland, the cantonal policy scales are still preeminent. In both countries, actors pushing the agenda of gender equality have finally found ways to politicize gender issues in order to overcome the original federal deadlock. As such, this process of change allows to import new perspectives regarding gender relations across policy scales, and, thus, to trigger a more far-reaching transformation of gender relations. Ultimately, this dynamic relies upon the capacity of policy actors to adapt and connect to the structures of different policy scales. In federal countries characterized by highly autonomous institutions, the challenge is even bigger.

Notes

1 We are grateful to Petra Meier and the anonymous revisers for their very helpful comments and suggestions. We also thank Thomas Montgomery for the English revision. The ideas presented in this article also benefited from comments by Sandro Cattacin, Véronique Mottier, Pascal Sciarini and Frédéric Varone.

2 For Switzerland: MARTIN (N.), «Les Politiques sociales suisses en faveur des femmes: quelques explications au tournant des années 90», *Revue Suisse de Science Politique*, vol. 8, n° 3-4, 2002, p. 61-83; KÜBLER (D.), «Understanding the Recent Expansion of Swiss Family Policy: An Idea-Centred Approach», *Journal of Social Policy*, vol. 36, n° 2, 2007, p. 217-237; HAÜSERMANN (S.) and KÜBLER (D.), «Policy Frame and Coalition Dynamics in the Recent Reforms of Swiss Family Policy», *German Policy Studies*, vol. 6, n° 3, 2010, p. 163-194; BALLESTRI (Y.) and GIULIANO (B.), «L'État social suisse face aux nouveaux risques sociaux : genèse et déterminants de l'adoption du programme de subventions pour les crèches», *Revue Suisse de Science Politique*, vol. 9, n° 3, 2003, p. 35-58. For Germany: HENNINGER (A.), WIMBAUER (C.) and DOMBROWSKI (R.), «Demography as a Push toward Gender Equality? Current Reforms of German Family Policy», *Social Politics: International Studies in Gender, State & Society*, vol. 15, n° 3, 2008, p. 287-314; FLECKENSETTEIN (T.), «The Politics of Ideas in Welfare State Transformation: Christian Democracy and the Reform of Family Policy in Germany», *Social Politics*, vol. 18, n° 4, 2011, p. 543-571; SEELEIB-KAISER (M.) and TOIVONEN (T.), «Between reforms and birth rates: Germany, Japan

and family policy discourse», *Social Politics*, vol. 8, n° 3, 2011, p. 331-360.

3 HAÜSERMANN (S.), «Changing coalitions in social policy reforms: the politics of new social needs and demands», *Journal of European Social Policy*, vol. 16, n° 1, 2006, p. 5-21; BEYELER (M.) and ANNESLEY (C.), «Gendering the Institutional Reform of the Welfare State: Germany, the United Kingdom, and Switzerland», in KROOK (M. L.) and MACKAY (F.), *Gender, Politics and Institutions. Towards a Feminist Institutionalism*, Palgrave MacMillan, 2010, p. 79-94.

4 KÜBLER (2007) allows for the diversity of cantonal family policies and provides very valuable information about local and cantonal dynamics -including private ones- in family policy, but his theoretical interest focuses on the national institutional shift.

5 WALBY (S.), *Globalization and Inequalities. Complexity and Contested Modernities*, London, Sage, p. 301.

6 ESPING-ANDERSEN (G.), *The Three Worlds of Welfare Capitalism*, Oxford, Polity Press, 1990.

7 DALY (M.) and RAKE (C.), *Gender and the Welfare State*, Oxford, Polity Marketing, 2003.

8 LEWIS (J.), «Gender and the Development of Welfare Regimes», *Journal of European Social Policy*, n° 3, 1992, p. 159-173; ORLOFF (A. S.), «Gender in the Welfare State», *Annual Review of Sociology*, vol. 22, 1996, p. 51-78.

9 WALBY (S.), «The European Union and Gender Equality: Emergent Varieties of Gender Regime», *Social Politics*, vol., n° 1, 2003, p. 4-29

10 We use these categories as a descriptive tool allowing us to compare gender regimes, leaving aside the question of their mutual influence.

11 MAZUR (A.), *Theorizing Feminist Policy*, Oxford, Oxford University Press, 2002.

12 EVERS (A.), «Shifts in the Welfare Mix - Introducing a New Approach for the Study of transformations in Welfare and Social Policy», in EVERS (A.) and WINTERSBERGER (H.), *Shifts in the Welfare Mix*, Frankfurt am Main/Boulder, Colorado, Campus/Westview, 1990, p. 7-29.

13 WEST (C.) and ZIMMERMAN (D. H.), «Doing Gender», *Gender & Society*, vol. 1, n° 2, 1987, p. 125-151.

14 PFAU-EFFINGER (B.), «Cultural change and path departure: The example of family policies in conservative welfare states», in OORSCHOT (W.), OPIELKA (M.) and PFAU-EFFINGER (B.), *Culture and Welfare State: Values and Social Policy in Comparative Perspective*, Edward Elgar Publishing, 2008, p. 185-204.

15 MAHON (R.) and BRENNAN (D.), «Federalism and the “New Politics” of Welfare Development: Childcare and Parental Leave in Australia and Canada», *Publius: The Journal of Federalism*, vol. 43, n° 1, 2012, p. 90-108.

16 For instance: LANG (S.) and SAUER (B.), «Does Federalism Impact Gender Architectures? The Case of Women’s Policy Agencies in Germany and Austria», *Publius: The Journal of Federalism*, vol. 43, n° 1, 2012, p. 68-89.



17 VICKERS (J.), «Is federalism gendered? Incorporating gender into studies of federalism», *Publius: The Journal of Federalism*, vol. 43, n° 1, 2013, p. 1-23

18 BEYELER (M.), «Effets directs et indirects du fédéralisme sur les politiques en matière d'égalité entre les femmes et les hommes - Perspectives venues de la Suisse», *Fédéralisme Régionalisme*, vol. 14, 2014, Étudier les systèmes fédéraux à travers le prisme du genre, <http://popups.ulg.ac.be/1374-3864/index.php?id=1364>.

19 MAHON (R.) and BRENNAN (D.), *op.cit.*, p. 105.

20 WEINGAST (B. R.), «The economic Role of Political Institutions: Market-Preserving Federalism and Economic Development», *Journal of Law, Economics, & Organization*, vol. 11, n° 1, 1995, p. 1-31.

21 MOTTIER (V.), «Eugenics and the Swiss Gender Regime: Women's Bodies and the struggle Against Difference», *Revue Suisse de Sociologie*, vol. 32, n° 2, 2006, p. 253-267.

22 *Ibidem*, p. 254.

23 SACHSSE (C.), «Subsidiarität - Leitmaxime deutscher Wohlfahrtsstaatlichkeit», in LESSENICH (S.), *Wohlfahrtsstaatliche Grundbegriffe*, Frankfurt a.M., Campus, 2003, p. 191-212; CATTACIN (S.), «Retard, rattrapage, normalisation. L'État social suisse face aux défis de transformation de la sécurité sociale», *Studien und Quellen - Études et Sources*, vol. 31, 2006, p. 49-78.

24 ESPING-ANDERSEN (G.), *op.cit.*, 1990.

25 VAN KERSEBERGEN (K.), *Social Capitalism: A Study of Christian Democracy and the Welfare State*, 1995, Routledge.

26 LEWIS (J.), «Gender and the Development of Welfare Regimes», *Journal of European Social Policy*, n° 3, 1992, p. 159-173.

27 BRAUN (D.), «Dezentraler und unitarischer Föderalismus - Die Schweiz und Deutschland im Vergleich», *Revue suisse de science politique*, vol. 1, 2003, p. 57-89.

28 ARMINGTON (K.), «Institutionalising the Swiss Welfare State», *West European Politics*, vol.24, n° 2, 2007, p. 145-168.

29 LADNER (A.) «Switzerland: Subsidiarity, Power Sharing and Direct Democracy», in LOUGHLIN (J.), HENDRIKS (F.), LIDSTRÖM (A.) (eds), *The Oxford Handbook of Local and Regional Democracy in Europe*, 2011, p. 215.

30 OPIELKA (M.), «Familie und Beruf - Eine deutsche Geschichte», *Aus Politik und Zeitgeschichte*, B 22-23, 2002, p. 5; MACRAE (H.), «Rescaling Gender Relations: The Influence of European Directives on the German Gender Regime», *Social Politics*, vol. 13, n° 4, Winter 2006, p. 522-550.

31 FERREE (M.M.), *Varieties of feminism: German gender politics in global perspective*, Stanford, Stanford University Press, 2012.

32 CDU, *Bericht des Generalsekretärs der CDU über die Verwirklichung der Essener Leitsätze*,

Bonn, 1986.

33 JORIS (E.), «Mouvement des femmes», in *Dictionnaire historique de la Suisse* (DHS), version du 03.10.2013 (traduit de l'allemand), <http://www.hls-dhs-dss.ch/textes/f/F16497.php> (consulted 08.05.2015).

34 *Ibidem*.

35 BANASZAK (L.A.), *Why Movements Succeed or Fail. Opportunity, Culture and the Struggle for Woman Suffrage*, Princeton, New Jersey, Princeton University Press, 1996.

36 BANASZAK (L. A.), «The Influence of the Initiative on the Swiss and American Women's Suffrage Movements», *Annuaire Suisse de Science Politique*, Berne, 1991, p. 187-207.

37 BALLMER-CAO (T.-H.), *Changement social et rapports entre hommes et femmes. La question de l'égalité en Suisse*, Lausanne, Payot, 2000.

38 MARTIN (N.), «Les Politiques sociales suisses en faveur des femmes: quelques explications au tournant des années 90», *Revue Suisse de Science Politique*, vol. 8, n° 3-4, 2002, p. 61-83.

39 LANG (S.) and SAUER (B.), *op.cit.*, 2012, p. 74.

40 The first women's policy agency was established within the new canton of Jura in 1979. No other canton follows the example at that time.

41 The new article is the result of a compromise between several popular initiatives supported by feminist movements.

42 HAÜSERMANN (S.), *op.cit.*, 2006.

43 SEELEIB-KAISER (M.) and TOIVONNEN (T), «Between reforms and birth rates: Germany, Japan and family policy discourse», *Social Politics*, vol. 18, n° 3, 2011, p. 331-360.

44 HENNIGER (A.), WIMBAUER (C.) and DOMBROWKY (R.), «Demography as a Push toward Gender Equality? Current Reforms of German Family Policy». *Social Politics: International Studies in Gender, State & Society* vol. 15, n° 3, 2008, p. 287-314.

45 KÜBLER (D.), *op.cit.*, 2007.

46 BALLESTRI (Y) and BONOLI (G.), *op.cit.*, 2003.

47 After an initial period of eight years, the programme has been extended twice. The last settlement covers 2015-2019.

48 STUDER (B.), «L'Etat, c'est l'homme. Politique, citoyenneté et genre dans le débat autour du suffrage féminin après 1945», *Revue Suisse d'Histoire*, vol.46, 1996, p. 356-382.

49 This insurance was pending for sixty years and was finally adopted after four defeats in popular votes in 1974, 1984, 1987 and 1999.

50 ENGELI (I.) «Enjeux de la problématisation de l'avortement: une analyse du débat au Conseil des États sur le régime du délai (2000-2001)», in PARINI (L.), BALLMER-CAO (T.-H.), DURRER (S.),



Régulation sociale et genre, Paris, L'Harmattan, Logiques sociales, 2006, p. 47-55.

51 ISELER (K.), *Kinderläden. Fallstudie zum Fortbestand sozialpädagogischer Organisationen*, Erlanger Beiträge zur Pädagogik, Waxman, Münster, 2009.

52 KÜBLER (D.), *op.cit.*, 2007.

53 Office fédéral des assurances sociales (OFAS). *Aides financières à l'accueil extra-familial pour enfant : bilan après douze années*, Berne, 2015.

54 LUCAS (B) and BALLMER-CAO (T.-H.), *Les nouvelles frontières du genre. La division public/privé en question*, Paris, L'Harmattan, coll. «Logiques sociales», 2010.

55 <http://www.bfs.admin.ch/bfs/portal/fr/index/themen/20/05/blank/key/erwerbstaetigkeit/teilzeitarbeit.html> (consulted 15.05.2015).

56 <http://www.boeckler.de/38987.htm> (consulted 28.05.2015).

57 WIDMER (E.), LEVY (R), POLLIEN (A.), HAMMER (R.) and GAUTHIER (J.-A.), «Entre standardisation, individualisation et sexuation : une analyse des trajectoires personnelles en Suisse», *Revue Suisse de Sociologie*, 2003, vol. 29, n° 1, p. 35-67.

58 BMSFJ, *Fünfter Bericht zur Evaluation des Kinderförderungsgesetzes*, 2015, Berlin.

59 *Ibid.*

60 The new constitutional article was accepted by a majority of voters but rejected by a majority of cantons.

61 LUCAS (B.), «Politique du care et gouvernement de la vie. Six villes suisses face aux situations de dépendance. », *Revue suisse de science politique*, vol. 16, n° 1, p. 109-146; GIRAUD (O.) and LUCAS (B.) «Care Policy as a Government of Life: Three Models Based on the Swiss Case», in REDDY (V.), MEYER (S), SHEFER (T.) and Meyiwa (T.), *Care in Context. Transnational gender perspectives*, Pretoria, Human Sciences Research Council Press, p. 68-85.

62 STEFFEN (I.), «Travail des femmes et politique familiale en Suisse», *La vie économique. Revue de politique économique*, n° 5, 2007, p. 52-54.

63 GASSER (M.), KERSTEN (S.), NOLLERT (M.) and SHIEF (S.), «Geschlechtsspezifische Ungleichheiten in der bezahlten und unbezahlten Arbeit : Kantonale Muster der Zeitungleichheit», *Revue Suisse de Sociologie*, vol. 41, n° 1, 2015, p. 9-31.

PDF généré automatiquement le 2020-06-23 08:50:25

Url de l'article : <https://popups.uliege.be:443/1374-3864/index.php?id=1392>