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*Gender equality in the workplace and smart working: the case of Italy in a  
comparative perspective*

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## *Introduction*

In the twenty-first century, no country in the world has achieved complete gender equality results and women still encounter multiple challenges both at the European and at the global level<sup>1</sup>. Gender equality represents a fundamental standard to assess the prosperity of countries around the world, from both the economic and social point of views, and the inclusion of women in several sectors of the society is likely to have a huge impact on the growth and competitiveness of both developed and under-developed countries in sight of the future world's prospects. According to the Global Gender Gap Report 2020, measuring the extent of progress achieved towards gender equality in 153 countries worldwide, regardless of the general great improvements in respect to previous years, the political arena still represents the least-developed field<sup>2</sup>.

Despite the biological differences between women and men, which render them objectively diverse, the advent of modern societies and the development of specific organizational structures have inevitably favored men rather than women, leading to the formulation of the so-called male *breadwinner* model<sup>3</sup>. Since the rise of constitutionalism, numerous have been the efforts to progressively recognize women's *status* and role within the society – especially in Western countries – and to guarantee both women and men the same rights and opportunities. However, it is controversial whether constitutional language and interpretation are effectively gender neutral, considering the common use of masculine language in several constitutions, which may implicitly exclude women – albeit involuntarily - assigning more rights and guarantees to men (Irving, 2008). I would recall the expression “*unfinished revolution*” (Esping-Andersen, 2009) to define the situation we are living today: an ongoing process which has not been concluded yet. In fact, women's gradual achievement of greater recognition of constitutional rights and the increasing opportunities to access employment have not corresponded to the adoption of policies able to dismantle the traditional gender-based division of roles, neither at the most simple level of society, represented by family. Besides, cultural attitudes still play a fundamental role at this regard, leading to persistent stereotypes deeply entrenched within societies, with the result that concrete structural changes and the full guarantee of gender equality could be possible only with the development of adequate and efficient policies at the governmental level.

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<sup>1</sup> Parlamento europeo, *All for equality - 2020 is a pivotal year for Gender Equality* (2020). Available at: (europa.eu)

<sup>2</sup> World Economic Forum, *Global Gender Gap Report 2020* (2020).

<sup>3</sup> C. Saraceno, *Politiche del lavoro e politiche della famiglia: un'alleanza lunga e problematica. Lavoro e diritto*, 15(1), 37-54 (2001), pp. 37, 42.

Without doubt, the process of globalization and the increasing interdependence among states have caused profound changes to the workforce's composition, leading to admit that the active participation of all human resources – including women – is essential for the correct functioning of markets. Several researches have revealed the significant contribution women could give by either entering the workplace and leadership positions or as political representatives, to strengthen and support the functioning and well-being of a country<sup>4</sup>.

After twenty five years since the adoption of the Beijing Platform for Action, the year 2020 was planned to produce great advancements for gender equality issues<sup>5</sup>. However, the outbreak of the COVID-19 pandemic have slowed down the process, even limiting the improvements made in recent decades, with the risk of an unprecedented and diffused recession. In fact, the current crisis has inevitably amplified already existing inequalities, exposing the most vulnerable categories at the social, economic and political levels<sup>6</sup>.

The desire to address the topic of gender equality as the main argument of my Master Degree's thesis emerged during the generalized lock down period, started in Italy in March 2020, and derives from the deep acknowledgment, as a woman, of the still evident disparities based on gender characterizing several modern societies, definitely worsened by the COVID-19 crisis. In fact, the profound suffering that has overwhelmed entire populations all over the world has highlighted the elements of weakness and/or strength characterizing each country and the effectiveness of its institutions and policies to face a generalized crisis. Specifically, I concentrated the discussion around two main variables, namely gender discrimination in the workplace and the equilibrium between private life and work, with particular attention to *smart working*. I conducted the analysis in a comparative perspective between Italy, the US and Scandinavian countries, with the aim to determine which model of welfare turns out to be more effective in addressing gender equality issues and what could one learn from the other.

After having explained the main conceptual and theoretical framework at the basis of gender equality's considerations, highlighting the importance of the constitutional structure of each country to define the main rights and duties referred both to women and men and providing the basis for their concrete implementation, I found interesting to underline the *win/win* relationship between gender parity and economic development. In fact, as I mentioned before, there is a direct and unequivocal

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<sup>4</sup> A. Löfström, *Gender equality, economic growth and employment*. Swedish Ministry of Integration and Gender Equality (2009), p. 11.

<sup>5</sup> UN Women, *Gender equality and women's empowerment: constitutional jurisprudence* (2017), p. 12.

<sup>6</sup> UN Women, *Policy Brief: The Impact of COVID-19 on Women* (2020).

correlation between effective and overreaching economic development and women's inclusion at all levels of society. In the following two chapters, I then explored the promotion of gender equality in the workplace both at the international and European level, in order to analyse the main instruments and institutions in place which favor gender equality and avoid sex discrimination in employment, with a focus on the effects of COVID-19 on gender divides in and outside Europe.

The European Union, since the adoption of the Treaty of Rome in 1957, has broadly stressed its commitment towards gender equality issues, providing a comprehensive legal framework aimed at creating a common and unified system of women's protection among member states. More recently, with the spread of the COVID-19 pandemic and the rise of new and imminent challenges, threatening the fragile accomplishments of the last decades, the EU has progressively adopted several emergency policies – among the latest Europe 2020 strategy - in order to sustain European states, severely affected by the sanitarian crisis, and to prevent a huge recession, not only in economic terms, but also from the social and political point of view. At this regard, in January 2021 the Members of the European Parliament highlighted, in a report adopted with 485 in favor, the necessity to adopt a gender-specific response to the COVID-19 pandemic, in order to improve gender equality and safeguard women's rights. In fact, women are disproportionately affected by the crisis, subject to greater inequalities in comparison to men<sup>7</sup>.

Besides, for what concerns the main international instruments favoring gender equality, I analysed the International Labour Organization, the 1995 Beijing Declaration, the UN Sustainable Development Goals, to be realized by 2030, and the G20's role in women's empowerment and inclusion in the United Nations framework, in order to provide a complete overview about the great efforts taken at the global level to achieve consistent results towards women rights' guarantee and protection. For instance, during the recent World Economic Forum meeting held in Davos in 2020, it was emphasized the persistence of gender pay gaps and considerable disparities in terms of employment opportunities penalizing women, underlining the necessity to overcome women's underrepresentation both at the political level and in several categories of jobs, in order to satisfy the new opportunities of the "Fourth Industrial Revolution"<sup>8</sup>. Additionally, gender equality (Goal n. 5) has been included among the Sustainable Development Goals launched by the United Nations in 2015, due to the fact that, despite the progress made in recent decades, full gender equality remains marginalized<sup>9</sup>.

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<sup>7</sup> Parlamento europeo, *Improving gender equality during and after the COVID-19 crisis* (2021). Available at: europa.eu

<sup>8</sup> V. Mancini, *Smart working e gender gap*. Rome Business School Research Center (2020), p. 21.

<sup>9</sup> UN Department of Economic and Social Affairs, *Goal 5*. Available at: un.org

Subsequently, I devoted the third chapter to the Italian legal system, analyzing the evolution of gender equality's and family-related legislation from the First World War until today, making reference also to the progressive adoption of parental leave policies and family benefits. Actually, the Catholic Church played a significant role upon the traditional division of roles within the Italian society, according to which women are the primary caretakers, while men are the *breadwinners*<sup>10</sup>, and had a strong influence over the drafting of the Italian Constitution and the inclusion or not of family rights. Besides, in the final version of the Constitution, it was recognized the principle of equal opportunities for both women and men (Art. 3) and Title II was entirely dedicated to social and family relations<sup>11</sup>. However, women obtained legal protection primarily as mothers, thus inevitably influencing the different degree of participation of men and women in the labor market, in favor of men. After the entry into force of the Constitution, several efforts have been made in order to guarantee equal opportunities to both sexes and to safeguard women also as workers, thus, requiring adequate forms of protection in order to balance their participation in the workforce and family needs. At this regard, I considered unavoidable to analyse the diffused unbalance between work and private life, especially on the side of women, and the emerging necessity of new employment dynamics, aimed at guaranteeing more flexibility in employment<sup>12</sup>. The COVID-19 pandemic has inevitably contributed to the adoption of alternative modalities of work, posing new challenges both for women's participation in the workforce and for the achievement of the abovementioned equilibrium. In order to determine the impact of smart working solutions upon women's employment during the COVID-19 crisis, I realized a survey (Appendix) composed of multiple choices' questions, to be submitted only to women between 18 and over 65 years old, coming from several Italian regions, with the aim to demonstrate the extent to which women have been penalized during the pandemic, both in terms of employment and family responsibilities.

Finally, the last chapter represents, I would say, the core of the analysis, providing a comparative perspective between the United States and Scandinavian countries, with particular reference to Norway. The choice to examine two apparently opposite nations derives not only from the awareness of their belonging to different models of welfare states - namely the *liberal* and the *social-democratic* ones -, but also considering the different history and cultural background characterizing the two, which have inevitably led to different approaches towards gender equality issues. Moreover, the gendered distribution of powers characterizing federal states plays a significant role in shaping equality and maternity policies in the US, rendering them considerably different from those adopted

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<sup>10</sup> S. Velluti, *Promotion of gender equality at the workplace* (2008), p. 196.

<sup>11</sup> G. Pino & A. Schiavello (2015) *Le discriminazioni di genere nel diritto italiano*, pp. 88-90.

<sup>12</sup> V. Mancini, *Smart working e gender gap*. Rome Business School Research Center (2020), pp. 10-11

in Nordic European countries, which are considered to be a model for women's inclusion and family-supportive policies. As a final point, I mentioned the reaction of both the US and Nordic countries to the COVID-19 pandemic, not only in terms of health responses, but also considering the economic and social policies adopted to support citizens during the crisis.



## *Chapter 1*

### *Gender equality definitions*

#### *1.1. Women and constitutional equity*

##### *1.1.1. Constitutional language and interpretation*

“Sex” and “gender”, respectively the distinction between men and women according to their biological differences or, conversely, the social meaning given to the differences between the two give rise to different conceptions of equality. The distinction between women and men according to “gender”, rather than “sex” might be helpful to overcome the different level of political participation and representation between the two. Thus, gender could be defined as a social construction or as a relational concept and, in both cases, what should and could change are the gender-based ideas hidden behind it<sup>13</sup>. Feminist theories often relate gender ideologies with the so-called “public-private divide”, according to which men and women shall have different roles in society: men primarily active in the public sphere - politics and economy, while women with a prominent role the private one.<sup>14</sup> The distinction between the public and private divide, related to women and men, has changed over time, from being an argument to exclude women from voting, to acquire a cultural connotation in the present time. Specifically, regarding women’s potential participation in politics, they are often subject to stereotypes, according to which they are less competent/capable and committed to take up political duties<sup>15</sup>.

The Constitution of a country, even if it may appear neutral, affects gender and women’s participation, or exclusion from, the constitutional community. According to H. Irving (2008), it is necessary to accept that “constitutions are not gender neutral or “sexless”, but at the same time recognizing that woman’s interests and needs could have or acquire constitutional expression<sup>16</sup>. Constitutional provisions may enhance, or alternatively, present obstacles to gender equality promotion<sup>17</sup>. For many centuries, Constitutions have been considered “gendered” and the language of constitutional and international politics has often presented the traditional stereotype of masculinity, assigning to men powers and access to political rights and, conversely, excluding

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<sup>13</sup> J. Sapiano and B. Baines, *Feminist Curiosity about International Constitutional Law and Global Constitutionalism*. Journal of the Oxford Centre for Socio-Legal Studies (2019), p. 9

<sup>14</sup> M. L. Krook & P. Norris, *Beyond quotas: Strategies to promote gender equality in elected office*. *Political Studies*, 62(1), 2-20 (2014), pp. 4-5.

<sup>15</sup> Ivi, p. 5.

<sup>16</sup> H. Irving, *Gender and the Constitution: Equity and agency in comparative constitutional design*. Cambridge University Press (2008), p. 8.

<sup>17</sup> Ivi, p. 1

women<sup>18</sup>. In fact, the majority of the world's constitutions refer to the people by using masculine language, either at the individual or collective level, justified by the assumption that masculine language is gender-neutral in law. However, it is not always obvious that the decision to refer to people as “men” or individuals would imply the inclusion of women<sup>19</sup>. Sandra Petersson, who examined in depth the issue of gender neutrality related to masculine language, has excluded its gender-neutrality, stating that it could somehow exclude women, while aiming to be inclusive and neutral. At this regard, some recent Constitutions have tried to avoid gender-specific patterns, by using nouns instead of pronouns, considering that gender-specific pronouns used with the aim of giving them a neutral connotation, have always been masculine<sup>20</sup>.

In order to analyse the concept of equality at the constitutional level, it may be useful to make a distinction between *formal* and *substantive* equality (Sapiano & Baines, 2019). On the one hand, *formal* equality refers to the provision of same rights and opportunities to women and men, deserving them of equal and similar treatment. Formal equality finds expression in the constitutional provisions that prohibit gender discrimination. On the other hand, *substantive* equality recognizes that *formal* equality may lead to unequal results, even if persons that are not similar are subject to a similar treatment, resulting in further disadvantage for the disadvantaged. Substantive equality also refers to positive rights, the fulfillment of which might be contended against the government, as opposed to negative ones, which are essentially freedoms from interference and somehow restrict the exercise of the governmental power. Substantive equality and positive rights may lead to some forms of “discriminations”, since they may prescribe to treat people differently, according some services or resources to some of them and denying the same things to others. These circumstances would inevitably infringe the test of formal equality<sup>21</sup>.

Among the prevalent doctrines in the context of gender equality, beyond the abovementioned concept of *formal equality*, the national constitutional jurisprudence has identified another prevalent doctrine: the “separate but equal” doctrine<sup>22</sup>. Both doctrines distinguish men and women by identifying the relevant differences and similarities between them, whether biologically or socially determined.

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<sup>18</sup> J. Sapiano and B. Baines, *Feminist Curiosity about International Constitutional Law and Global Constitutionalism*. Journal of the Oxford Centre for Socio-Legal Studies (2019), p. 1

<sup>19</sup> H. Irving, *Gender and the Constitution: Equity and agency in comparative constitutional design*. Cambridge University Press (2008), p. 40.

<sup>20</sup> Ivi, pp. 41-42

<sup>21</sup> Sapiano and B. Baines, *Feminist Curiosity about International Constitutional Law and Global Constitutionalism*. Journal of the Oxford Centre for Socio-Legal Studies (2019), p. 1

<sup>22</sup> B. Baines and R. Rubio- Marin, Introduction: Toward a feminist constitutional agenda. *The Gender of Constitutional Jurisprudence*. Cambridge University Press (2004), p. 13

However, on the one hand, formal equality aims to create a gender-neutral legal order, assuming that the sex of a person does not reveal its real value and it in which women and men are equal. On the other hand, the separate but equal doctrine lays on the respect for the value of women's differences, while assuring they do not receive a worse treatment.

In the design and architecture of a Constitution, the concept of equality involves also the notions of equity and agency, which are central to membership in the constitutional community and transcend the meaning of equality, either formal or substantive. While equity embraces justice and fairness, recognition and respect, agency refers to inclusion, effective participation in the political sphere and decision-making. Both equity and agency incorporate more than positive or negative rights or limits to any form of discrimination, they involve questions about representation, citizenship, jurisdiction, among others<sup>23</sup>.

Although women are often under-represented in the constitutional drafting process and in the constitutional provisions, they advance claims for constitutional rights<sup>24</sup>. The United States first adopted the modern form of written constitution, with the Philadelphia Convention of 1787, established by men<sup>25</sup>. In fact, women were not included nor eligible to vote. In the late eighteenth century, in the USA and in France, with the adoption of the French Constitution, principles of equality among men and claims for the rights to representation were progressively emerging and women's request for an equal share in the political sphere were starting to be articulated. In 1791, Olympe de Gouges published an edited, gender-sensitive version of the "Rights of Man and the Citizen", the Declaration of the Rights of Woman and Female Citizen, introducing the words "woman" and "female"<sup>26</sup>. For centuries, women could not participate in civic life, whether as voters or legislators, lawyers or jurists, nor in constitutional activities and women's first introduction into the realm of constitution making regarded the right to vote. In 1920, the USA were the first country to adopt a constitutional amendment in order to guarantee women the right to vote. Although the franchise represented an important achievement, it did not lead to any further formal constitutional changes for women<sup>27</sup>. After World War II, the previous assumptions, according to which women were to be

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<sup>23</sup> H. Irving, *Gender and the Constitution: Equity and agency in comparative constitutional design*, Cambridge University Press (2008), p. 3

<sup>24</sup> B. Baines and R. Rubio- Marin, *Introduction: Toward a feminist constitutional agenda*. The Gender of Constitutional Jurisprudence. Cambridge University Press (2004), p. 7

<sup>25</sup> A. R. Amar, *Women and the Constitution*, *Harv. JL & Pub. Pol'y*, 18, p. 465.

<sup>26</sup> H. Irving, *Gender and the Constitution: Equity and agency in comparative constitutional design*, Cambridge University Press (2008), p. 5.

<sup>27</sup> H. Irving, *Gender and the Constitution: Equity and agency in comparative constitutional design*, Cambridge University Press (2008), p. 8

excluded from political participation, were replaced by the guarantee of political rights to women, including the right to vote, to be elected and to hold public functions, without discrimination. Art.21 of the Universal Declaration of Human Rights, adopted in 1948, provided the right to public participation for “everyone”. The Convention on the Political Rights of Women (1952) affirmed women’s rights to political participation, an objective reinforced with the 1967 Declaration on the Elimination of Discrimination against Women<sup>28</sup>.

Formal equality and, specifically, gender equality, became more relevant only in postwar constitutionalism and during the 1980s and 1990s, women began to participate actively in processes of constitutional renewal. On the one hand, the litigation process allows women to influence and change the meaning of constitutional norms and constitutional rights, which normally express the fundamental values of a country, might defend, but also limit women’s claims<sup>29</sup>. Although women have participated in revolutionary activities, gender conflict has never strongly influenced the constitutional structure of a country. However, because women’s oppression remains a worldwide phenomenon, despite some national variations, many constitutions, especially those recently drafted, explicitly forbid gender discrimination, and/or ensure equality rights to men and women, in order to support women’s equality claims<sup>30</sup>.

In order to have a complete overview of women’s constitutional rights, it would be useful to analyse the sphere of application of these rights. While common law countries usually restrict the application of constitutional rights referred to women to the public sphere, other countries, belonging to the civil law tradition, allow women to rely on constitutional rights also in case of injustice and discrimination in the private sector, including the family, schools, and workplace. The distinction between countries requiring state action and those recognizing the “horizontal” effect of constitutional rights is especially relevant to women, especially considering that the most severe forms of discrimination that women face take place in the private sphere.

Family is often subject of explicit constitutional protection, even though the presence of constitutional provisions related to the family does not imply that countries have a constitutional jurisprudence related to it. It is important to analyse how the reference to the family within the Constitution may affect women’s rights and protection and which socioeconomic issues arise at this regard. Even when

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<sup>28</sup> R. Rubio-Marin and W. Kymlicka, *Gender parity and multicultural feminism: towards a new synthesis*, Oxford Scholarship Online (2018), p. 69

<sup>29</sup> H. Irving, *Gender and the Constitution: Equity and agency in comparative constitutional design*, Cambridge University Press (2008), p. 10

<sup>30</sup> B. Baines and R. Rubio- Marin, *Introduction: Toward a feminist constitutional agenda*. *The Gender of Constitutional Jurisprudence*. Cambridge University Press (2004), pp. 12-13.

articulated in gender-neutral terms and recognized by some constitutions, the rights to education, housing, health care, social security, and so on, have an impact on gender equality<sup>31</sup>. Without any doubt, women's political inclusion and participation is essential to overcome their social and economic subjugation.

A feminist analysis of the constitutional jurisprudence, in which gender becomes the central focus, might be useful to understand whether constitutions can be for women too<sup>32</sup>. In the growth of the modern constitutionalism, a feminist reading of the U.S. Constitution acknowledged that constitutions are not gender neutral. However, it recognized that women's interests and needs might have constitutional expression<sup>33</sup>. According to the legal theory's conventional premises, constitutionalism is as "*the relationship among a constitution's authority, its identity, and possible methodologies of interpretation,*" feminist theorists have proposed to conceptualize it in a more general way. Rather than investigating whether constitutions could be for women, what is at stake is when and how constitutions recognize and guarantee women's rights<sup>34</sup>. To answer the first question, the constitutional rights of women received little or no juridical recognition until the twentieth-century, therefore nowadays it is appropriate to protect and promote the constitutional rights of women, regardless of whether a country has entered recently the world's stage or whether it has ancient roots. However, in the twenty-first century, much still shall be done in the process of "constituting" (or recognizing, promoting) women's rights. Regarding the second issue, how the constitution making process or the existing constitutional framework shall promote gender equality is a complex challenge. In fact, feminists and judges often emphasize different aspects and do not necessarily share the same goals when analyzing gender equality. For instance, some feminists believe that gender equality will not be achieved until the subordination of women is overcome, while some jurists deny the existence of women's subordination as an obstacle<sup>35</sup>.

The different methods of constitutional interpretation might have a negative impact on women's constitutional protection. Specifically, there might be some differences depending on the methodologies used. The majority of Constitutions leave to the individual judge the power to choose

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<sup>31</sup> H. Irving, *Gender and the Constitution: Equity and agency in comparative constitutional design*, Cambridge University Press (2008), pp. 18-19

<sup>32</sup> B. Baines and R. Rubio- Marin, Introduction: Toward a feminist constitutional agenda. *The Gender of Constitutional Jurisprudence*. Cambridge University Press (2004), p. 1

<sup>33</sup> H. Irving, *Gender and the Constitution: Equity and agency in comparative constitutional design*, Cambridge University Press (2008), p. 5.

<sup>34</sup> B. Baines and R. Rubio- Marin, Introduction: Toward a feminist constitutional agenda. *The Gender of Constitutional Jurisprudence*. Cambridge University Press (2004), pp. 1-2.

<sup>35</sup> Ivi, pp. 2-3.

the method of interpretation, while in some few cases, the Constitution expressly guides the interpretation<sup>36</sup>. However, if the Constitution should be interpreted according to the original purpose of its founding fathers – another referral to the masculine sphere – it is unlikely that they had in mind the goal of promoting equality between women and men and that the rights sets out in the Constitution would include women<sup>37</sup>. Even if masculine language characterizing many constitutions was probably not intentionally aimed at ruling out women, the symbolic meaning of language is strong and should not be disregarded. Moreover, if a Constitution shall represent all the members of a community, one speaking only to men could not be seen as democratic. In order to fulfil the principle of legitimacy, a modern constitution shall ensure that people under its jurisdiction feel a sense of belonging to it<sup>38</sup>.

### *1.1.2. The introduction of gender quotas*

Within the debate regarding the achievement of gender equality in terms of policies adopted, the notion of “equality” might have two different connotations. In many societies, equality represents one of the fundamental values, even though the strategy put in place to achieve it might differ from country to country. In the liberal thinking, “equality of opportunity”, defined as the absence of unfair obstacles to competition between men and women, shall be distinguished from “equality of results”, characterized by the unfair redistribution of values and goods to people that do not deserve it. The introduction of gender quotas, started in the recent years to guarantee the access of female candidates to political functions, might somehow compensate the lack of “equality of results”<sup>39</sup>.

Nowadays, the achievement of gender equality at the political level, specifically in public office, constitutes a primary objective, not only for national governments, but also at the global level for international organizations, driven by the need to include women, to promote their interests and to use their resources in a profitable way<sup>40</sup>. However, the introduction of gender quotas has raised different constitutional issues, especially regarding its compatibility with the principle of gender equality and the political freedom of both the electorate and political parties.<sup>41</sup> According to those in favor of gender quotas, the introduction of gender quotas might compensate structural or direct

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<sup>36</sup> H. Irving, *Gender and the Constitution: Equity and agency in comparative constitutional design*, Cambridge University Press (2008), p. 53.

<sup>37</sup> Ivi, pp. 57-58.

<sup>38</sup> Ivi, p. 63.

<sup>39</sup> D. Dahlerup, *Electoral gender quotas: Between equality of opportunity and equality of result*. *Representation*, 43(2), 73-92 (2007), p. 83.

<sup>40</sup> M. L. Krook & P. Norris, *Beyond quotas: Strategies to promote gender equality in elected office*. *Political Studies*, 62(1), 2-20 (2014), p. 3.

<sup>41</sup> B. Rodríguez-Ruiz, & R. Rubio-Marin, *Constitutional Justification of Party Democracy* (2008), p. 1171.

discriminations against women and be effective for achieving equality at the political level. By contrast, gender quotas' adversaries believe that quotas violate the principle of merit<sup>42</sup>.

Gender quotas include *reserved seats quotas*; *party quotas*, which aim to increase the portion of women as party candidates, and *legislative quotas*, according to which all parties shall present a certain number of women within their electoral lists<sup>43</sup>. However, quotas regimes, except for *reserved seats quotas*, do not give women certainty about their political representation. For instance, *candidate quotas* do not guarantee the election of a fixed number of women, but it only aims at forcing political parties to end the tradition of presenting only lists made up of male candidates and increasing the female component<sup>44</sup>. These proposals have emerged especially in the last twenty years and have spread at the global level. According to the researches in this field, the majority of the efforts done for the introduction of gender quotas comes from women, even though the decision is up to the male elites.<sup>45</sup> In fact, the adoption of gender quotas by political parties and their efforts in creating more opportunities for women might give them some strategic advantage, in particular in case of electoral competition or as a way to sustain the existing government<sup>46</sup>.

Even though the introduction of quotas might enhance women's participation and promote their inclusion in politics, quotas alone might not be sufficient to achieve gender parity. Specifically, institutional barriers, such as the electoral system of a country, political parties and so on, but especially ideological resistance towards women's capacity might represent a strong limit to greater participation of women in politics and policymaking<sup>47</sup>. Therefore, in order to enhance the achievement of gender equality, alternative strategies beyond gender quotas shall be put in place, such as the involvement of the civil society, in order to diffuse a cultural transformation; raising awareness, by changing public stances towards women's participation in politics and remove stereotypes and so on<sup>48</sup>.

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<sup>42</sup> D. Dahlerup, *Electoral gender quotas: Between equality of opportunity and equality of result*. *Representation*, 43(2), 73-92 (2007), p. 73.

<sup>43</sup> M. L. Krook, *Reforming representation: The diffusion of candidate gender quotas worldwide*. *Politics & Gender*, 2(3) (2006), p. 304

<sup>44</sup> Dahlerup, *Electoral gender quotas: Between equality of opportunity and equality of result*. *Representation*, 43(2), 73-92 (2007), pp. 83-84.

<sup>45</sup> M. L. Krook, *Reforming representation: The diffusion of candidate gender quotas worldwide*. *Politics & Gender*, 2(3) (2006), p. 307.

<sup>46</sup> Ivi, pp. 308-309

<sup>47</sup> E. Duflo, *Women empowerment and economic development*. *Journal of Economic Literature*, Vol. 50, No 4, pp. 1051-079 (2012), p. 1062.

<sup>48</sup> M. L. Krook & P. Norris, *Beyond quotas: Strategies to promote gender equality in elected office*. *Political Studies*, 62(1), 2-20 (2014), pp. 7-8

## *1.2. Sex discrimination in the workplace*

The process of globalization has caused important changes within markets and the global composition of the workforce. Since workplace's harmony is essential, both for companies and as an instrument to increase economic productivity, the achievement of gender equality in the workplace has become fundamental to avoid differentiations between "us" and "them"<sup>49</sup>. Despite many international efforts, starting from the UN Millennium Development Goals, to address gender equality as a fundamental issue, there are still prejudices on women's recruitment in many countries in the world<sup>50</sup>. In fact, men and women deal with meaningful differences in the workplace, in relation to wages, occupational composition, authority and so on and the reasons behind the persistence of gender differences regards not only the supply side, related to individual differences, but also the demand side, which refers to organizational elements. In order to provide a more comprehensive explanation of gender discrimination in the workplace, it should be considered the general gender system, including the cultural dimension of gender attitudes, the structural elements characterizing sex discrimination and the policies that institutional actors' policies put in place at this regard<sup>51</sup>. Without any doubts, socio-cultural features contribute significantly in shaping equality and diversity patterns and are among the primary sources of gender discrimination.

Women may encounter different types of discrimination in the workplace, related to their working and material conditions, exclusion or expulsion from work, or in terms of sexual harassment<sup>52</sup>.

According to the capabilities approach, which aims to provide a universal equality model and recognizes human diversity, women and men should be considered not for what they are, but in terms of their capabilities as individuals<sup>53</sup>. Discrimination in the workplace is usually the consequence of specific actions of employers, supervisors or coworkers, which "deny to individuals or groups of people equality of treatment which they may wish"<sup>54</sup> and the fulfillment of equal opportunities might be a consequence of managers' approach towards equal opportunity incentives, especially in case strict budget control at their disposal<sup>55</sup>.

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<sup>49</sup> A. Sharma *Managing diversity and equality in the workplace*. Cogent Business & Management (2016), p. 2.

<sup>50</sup> Ivi, p. 6.

<sup>51</sup> D. Bobbitt-Zeher, *Gender discrimination at work: Connecting gender stereotypes, institutional policies, and gender composition of workplace*. *Gender & Society*, 25(6), 764-786 (2011), p. 765.

<sup>52</sup> Ivi, p. 770.

<sup>53</sup> A. Sharma, *Managing diversity and equality in the workplace*. Cogent Business & Management (2016), p. 10

<sup>54</sup> K. Stainback, T. N. Ratliff, & V. J. Roscigno, *The context of workplace sex discrimination: Sex composition, workplace culture and relative power*. *Social Forces*, 89(4), 1165-1188 (2011), p. 1165.

<sup>55</sup> A. Sharma, *Managing diversity and equality in the workplace*. Cogent Business & Management (2016), p. 7



On the one hand, the diversity management approach within an organization, which focused on valuing the differences between individuals in the workplace and prohibiting any form of discrimination, would be useful to achieve an “inclusive” culture of work. On the other hand, the achievement of equality in terms of opportunities is related to the adoption of legal rules, granting specific rights, and is aimed at increasing the proportion of women and minority groups in the workplace<sup>56</sup>. The history and internal features of businesses are also likely to influence the internal dynamics which regulate the workplace functioning and it has been demonstrated that work environments characterized by favorable cultures and history might reduce gender discrimination in the workplace. Therefore, the creation of a supporting and encouraging environment among colleagues, but also of workplace attitudes in support of work-family relations, in favor of women, would favor the reduction of sex discrimination in the workplace<sup>57</sup>.

Many countries have adopted targeted policies aimed at countering gender discrimination, especially regarding maternity leave, laws granting flexible working, part-time work and so on<sup>58</sup>, considering the persistent discrimination related to motherhood, which is likely to influence hiring, firing, and women’s wages<sup>59</sup>. Many studies show that the primary forms of discrimination take place in policies’ application or implementation, considering that employers might use discretion when applying existing working policies and consequently use specific criteria for hiring<sup>60</sup>.

Job security indicates another dimension to explain gender discrimination and sexual harassment in the workplace, considering that those having less protection are more vulnerable and subjected to firing and have less power versus managers and colleagues. Moreover, women’s power, in terms of authority, job title, but also education, render them potential threats for male coworkers and managers and is likely to determine sexual harassment and to create a gender gap in employment. Recent studies have demonstrated that gender discrimination increases in proportion to women’s escalation in the organizational hierarchy<sup>61</sup> and the presence of a same-sex manager might represent an advantage for

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<sup>56</sup> A. Sharma, *Managing diversity and equality in the workplace*. Cogent Business & Management (2016), p. 6

<sup>57</sup> K. Stainback, T. N. Ratliff, & V. J. Roscigno, *The context of workplace sex discrimination: Sex composition, workplace culture and relative power*. *Social Forces*, 89(4), 1165-1188 (2011), pp. 1168-1169.

<sup>58</sup> A. Sharma, *Managing diversity and equality in the workplace*. Cogent Business & Management (2016), p. 6

<sup>59</sup> K. Stainback, T. N. Ratliff, & V. J. Roscigno, *The context of workplace sex discrimination: Sex composition, workplace culture and relative power*. *Social Forces*, 89(4), 1165-1188 (2011), p. 1169

<sup>60</sup> D. Bobbitt-Zeher, *Gender discrimination at work: Connecting gender stereotypes, institutional policies, and gender composition of workplace*. *Gender & Society*, 25(6), 764-786 (2011), p. 778.

<sup>61</sup> K. Stainback, T. N. Ratliff, & V. J. Roscigno, *The context of workplace sex discrimination: Sex composition, workplace culture and relative power*. *Social Forces*, 89(4), 1165-1188 (2011), p. 1171.

women and perhaps change their perception regarding opportunities in employment, but also act as a guardian from sexual harassment<sup>62</sup>.

Despite the fact that women often occupy jobs with lower replacing costs and lower wages<sup>63</sup>, the gender-based composition of the labor force generally implies two forms of discrimination related to occupational distribution. The first regards the type of jobs, some of which exclusively dominated by men and some others only by women, providing different career perspective to both of them, while the second regards the different positions men and women can occupy, even when working in the same field and doing equivalent work<sup>64</sup>. According to some studies specifically related to discrimination, women occupying jobs and working positions traditionally reserved to men might become more vulnerable to sexual harassment and gender discrimination, either because of men's effort to preserve their privileges in those working areas and/or to avoid that women's increased participation might undermine men's power<sup>65</sup>. Moreover, gender stereotypes might occur in case of discrepancies between the awaited genders for a specific job and the gender of the potential worker, especially due to gendered considerations about predisposition, skills and mentality needed for a job that raise conflicts between men and women<sup>66</sup>.

Overall, discriminatory policies and/or the absence of policies represent the most significant obstacle for women, considering that the policies at issue regard maternity leave, pregnancy, sexual harassment and their presence in a female-dominated context would be useful. Moreover, the limited participation of women in the labor market has been considered as a potential explanation for the lack of policies specifically related to women, leading policy-makers to avoid issues such as maternity or adopt hostile policies. Therefore, on the one hand, the relation between gender discriminations and policies aimed at prohibiting discrimination and favoring women's rights and protection appears considerable. On the other hand, the gendered-based composition of the workforce seems to have a great effect on women's discrimination, leading to gender stereotypes<sup>67</sup>.

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<sup>62</sup> K. Stainback, T. N. Ratliff, & V. J. Roscigno, *The context of workplace sex discrimination: Sex composition, workplace culture and relative power*. *Social Forces*, 89(4), 1165-1188 (2011), pp. 1181-1182.

<sup>63</sup> W. T. Bielby and J. N. Baron, *Men and Women at Work: Sex Segregation and Statistical Discrimination*. *American Journal of Sociology* (1986), p. 762.

<sup>64</sup> Ivi, pp. 764-765.

<sup>65</sup> D. Bobbitt-Zeher, *Gender discrimination at work: Connecting gender stereotypes, institutional policies, and gender composition of workplace*. *Gender & Society*, 25(6), 764-786 (2011), p. 767.

<sup>66</sup> Ivi, p. 773.

<sup>67</sup> D. Bobbitt-Zeher, *Gender discrimination at work: Connecting gender stereotypes, institutional policies, and gender composition of workplace*. *Gender & Society*, 25(6), 764-786 (2011), p. 783.

### ***1.3. The relation between women empowerment and economic development***

Gender inequality shall be analysed considering not only the way constitutional provisions may enhance or limit women's participation in society, but also the differences in opportunities and outcomes between women and men characterizing many countries. In fact, gender equality is a *multidimensional* concept<sup>68</sup>, which includes not only the sphere of political representation or the bargaining power, but also occupation, education, access to employment and entrepreneurship and so on.

The increasing involvement of women in the economy during the nineteenth century was one of the major changes in the labor market. Since the UN Decade for Women (1975-1985), huge progresses have been made on relating gender equality to development and considering it not only related to specific, economic objectives, but rather in a more holistic way, aiming at a concrete shift in policies towards a new idea of human development and well-being<sup>69</sup>. In the 1970s, women started to be considered as part of the traditional culture of a society and a new *gender and development paradigm* started to emerge, parallel to the emergence of feminist theories and as a reaction to the perceived exclusion of women from the process of economic development. Thus, it became evident their economic potential and their valuable contribution to the economic development<sup>70</sup> and a better valorization and application of women's capacity might affect a country's productivity, leading to greater efficiency<sup>71</sup>.

Goldin (2006) identified four phases to describe the increasing economic role of women, three of which were "evolutionary" and the last "revolutionary", which began in the late 1970s and continues to the present. The distinction between *evolution* and *revolution* to describe the process was made by using three indicators: "horizon", considered when analyzing women's involvement in the labor market; women's "identity" related to their occupation, career or profession and finally women's "decision-making" power in terms of participation in the labor market. The transition from an evolutionary phase to a revolutionary one was driven by a shift from a static to a dynamic decision-making, which respectively changed the horizons from limited ones to long-lasting ones<sup>72</sup>.

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<sup>68</sup> A. Löfström, *Gender equality, economic growth and employment*. Swedish Ministry of Integration and Gender Equality (2009).

<sup>69</sup> S. Chant & C. Sweetman, *Fixing women or fixing the world? 'Smart economics', efficiency approaches, and gender equality in development* (2012), p. 518.

<sup>70</sup> S. Singh, *Deconstructing 'gender and development' for 'identities of women'*. *International Journal of Social Welfare*, 16(2), 100-109 (2007), p. 101.

<sup>71</sup> S. Chant & C. Sweetman, *Fixing women or fixing the world? 'Smart economics', efficiency approaches, and gender equality in development* (2012), p. 518.

<sup>72</sup> C. Goldin, *The Quiet Revolution That Transformed Women's Employment, Education, and Family*. *American Economic Review* 96 (2): 1—21 (2006), pp. 1-2.

Today, it is widespread the mutually reinforcing relationship between gender equality and economic development, which brings forward a *win/win* result<sup>73</sup>. At this regard, many scholars identify a *two-way relationship*, according to which, on the one hand, economic growth positively affects the achievement of gender equality, and, on the other hand, gender disparities imply negative consequences for economic development<sup>74</sup>. In other words, while the enhancement of women's access to education, rights, health, and opportunities, could drive down gender inequalities, persistent discrimination against women might obstacle economic development.<sup>75</sup> At this regard, the previous Secretary General of the United Nations, Kofi Annan, in 2005 affirmed, "*Achieving gender equality is a prerequisite for achieving other Millennium Development Goals, including the elimination of poverty, the reduction of child mortality, and the achievement of universal right to education*"<sup>76</sup>, underlining the need to eliminate all kinds of gender inequalities.

Moreover, if economic growth is measured in terms of labour market productivity and the human resources' optimal use, the exclusion of women from the labor market may have a negative impact on economic growth<sup>77</sup>, also considering that women workers may be more productive than men may. Therefore, women's greater participation in the labor market could boost labor productivity and economic growth<sup>78</sup>.

Theorists and policymakers have often focused mainly on one or the other side of this *two-way relationship*. For instance, some authors have emphasized that, with economic growth and the process of industrialization, gender inequality has progressively decreased in many countries, especially the more developed ones. Some other theories support the idea that the initial process of economic growth is always characterized by an increasing gender gap, which starts to diminish when countries reach a certain level of development and with the emergence of urban economies.

By contrast, according to the *Gender and Development* (GAD) approach, over the process of economic growth women continue to be vulnerable and to face some kind of discriminations, because

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<sup>73</sup> S. Chant & C. Sweetman, *Fixing women or fixing the world? 'Smart economics', efficiency approaches, and gender equality in development* (2012) p. 520.

<sup>74</sup> D. Cuberes and M. Teignier, *Gender gaps in the labour market and aggregate productivity* (2012), p. 2.

<sup>75</sup> A. Löfström, *Gender equality, economic growth and employment. Swedish Ministry of Integration and Gender Equality* (2009), p. 11.

<sup>76</sup> E. Duflo, *Women empowerment and economic development. Journal of Economic Literature*, Vol. 50, No 4, pp. 1051–079 (2012), p. 1053.

<sup>77</sup> N. Kabeer and L. Natali, *Gender Equality and Economic Growth: Is there a Win-Win?*. IDS Working Paper, Volume 2013, No 417 (2013), p. 8.

<sup>78</sup> A. Löfström, *Gender equality, economic growth and employment. Swedish Ministry of Integration and Gender Equality* (2009), p. 11.

of the institutional structures of societies<sup>79</sup>. At this regard, Boserup in “*Woman’s role in economic development*” (1970) underlined the importance of the structural features of a society to establish different forms of women’s discrimination and subordination<sup>80</sup>. Therefore, in order to reach considerable progress for women’s inclusion and empowerment and to achieve gender equality between men and women, economic growth alone would not be sufficient economic growth alone would not be sufficient without the adoption of adequate policies at the institutional level able to promote gender equality and avoid any distortion of the market. At this regard, cultural traditions still affect gender equality in many parts of the world, reflecting long-standing values and norms that regulate the role of men and women in society, which could be changed by giving women more bargaining power and access to education and employment<sup>81</sup>.

In fact, the equal right to education is a fundamental precondition for the achievement of gender equality in the labor market, even if not sufficient itself<sup>82</sup>. A research conducted by Knowles et al. (2002) demonstrated that the different educational levels between men and women, – the so-called “*gender education gap*”<sup>83</sup> – are likely to have a deep impact on growth, more evident on the part of women than that of men, so that women’s higher educational level would imply a positive impact on GDP.

Some feminists’ theories justified the oppression of women and their vulnerability in the labor market by referring to domestic labor and to the patriarchal structure upon which household production is based, which renders women dependent upon male wages and produces asymmetric gender relations<sup>84</sup>. The analysis of parenthood, in which women and men still have unequal responsibilities, might be useful to understand its association with the employment sector and its potential to influence labor arrangements between men and women. Since the gender revolution, women started to enter domains previously dominated by men, such as labor market and education, gaining more economic power

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<sup>79</sup> D. Cuberes and M. Teignier-Baqué, *Gender inequality and economic growth* (2011), p. 2

<sup>80</sup> L. Beneria & G. Sen, *Accumulation, reproduction, and" women's role in economic development: Boserup revisited*. *Signs: Journal of women in culture and society*, 7(2), 279-298 (1981), pp. 279-280.

<sup>81</sup> N. Kabeer and L. Natali, *Gender Equality and Economic Growth: Is there a Win-Win?*. IDS Working Paper, Volume 2013, No 417 (2013), pp. 32-33.

<sup>82</sup> A. Löfström, *Gender equality, economic growth and employment*. *Swedish Ministry of Integration and Gender Equality* (2009), p. 7

<sup>83</sup> Ivi, p. 7.

<sup>84</sup> L. Beneria & G. Sen, *Accumulation, reproduction, and" women's role in economic development: Boserup revisited*. *Signs: Journal of women in culture and society*, 7(2), 279-298 (1981), pp. 291-292.

outside the family. However, even though men have started to be involved in childcare, expectations towards women's role within the household are still strong.<sup>85</sup>

The increased opportunities for women to access employment might increase their bargaining power also within the family, weakening of the traditional conception of male supremacy over labor and reducing asymmetries between women and men. Moreover, women's participation in the labor market would inevitably increase the family income, also considering the different consumption patterns characterizing women and men, by which the second ones are less inclined to save money than the first ones.<sup>86</sup> However, several studies by psychologists demonstrate the persistence of widespread bias about women, even in developed countries, which associate men with career and women with family, despite the increasing participation of women in the labor market and academic field. In addition, the persistence of wage differential, despite the level of qualification also in wealthy countries demonstrates the enduring discrimination against women<sup>87</sup>.

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<sup>85</sup> J. E. Yavorsky, C. M. Dush, & S. J. Schoppe-Sullivan. *The Production of Inequality: The Gender Division of Labor across the Transition to Parenthood*. *Journal of marriage and the family*, 77(3), 662–679 (2015), pp. 1-3.

<sup>86</sup> A. Mitra, J. T. Bang & A. Biswas, *Gender equality and economic growth: Is it equality of opportunity or equality of outcomes?* *Feminist Economics*, 21(1), 110-135 (2015), pp. 112-113.

<sup>87</sup> E. Duflo, *Women empowerment and economic development*. *Journal of Economic Literature*, Vol. 50, No 4, pp. 1051–079 (2012), p. 1061-1062.

## Chapter 2

### *The promotion of gender equality in the workplace at the international level*

#### *2.1. The European legal framework*

##### *2.1.1. From the Treaty of Rome until Europe 2020 strategy*

The European Union was originally an economic project, based on *market making*, which prioritized economic policies and dealt with social policies in relation to their potential function for market integration<sup>88</sup>. Even though the Treaties of Rome provided a social chapter, including human rights and workers' rights and conditions<sup>89</sup>, the European Union's gender equality framework, originally incorporated in Art.119 of the Treaty of Rome (now Art.141 EC) on equal pay, was initially only related to the internal market and employment.

Since the 1970s and continuing in the 1980s-1990s, a substantial change in the EU's attitude towards labor and employment led to the adoption of a package of rules aimed at the protection of workers' rights beyond Member states' legal system<sup>90</sup>. For instance, in order to facilitate Member States' compliance with Art.141 EC, the Council adopted in 1975 the *Equal Pay Directive*, which defined equal pay as the equal value attributed to the same amount of work. It also required a nondiscriminatory system of job classification and the elimination of all forms of gender discrimination deriving from existing legislation, for both private job contracts and collective agreements related to industries<sup>91</sup>. It followed, one year later, the *Equal Treatment Directive*, which prohibited discrimination based on gender inequalities in access to employment<sup>92</sup>, and was then amended by a binding anti-discrimination directive (Directive 2002/73/EC), related to the protection of women's dignity and equality in the workplace<sup>93</sup>. Despite the delayed implementation of the Equal Pay and Equal Treatment directives, they both had a positive impact on enhancing European awareness about gender equality, not only as principle of nondiscrimination at the economic level, but also as a social obligation in employment and other spheres of society<sup>94</sup>.

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<sup>88</sup> M. Daly, *EU social policy after Lisbon*. *JCMS: Journal of Common Market Studies*, 44(3), 461-481 (2006), p. 468.

<sup>89</sup> E. F. Defeis, *The Treaty of Amsterdam: the next step towards gender equality?* Hein Online (1999), p. 2.

<sup>90</sup> C. Barnard, *EU Employment Law and the European Social Model: The Past, the Present and the Future*. *Current legal problems*. 67.1 (2014): 199-237, p. 209.

<sup>91</sup> E. F. Defeis, *The Treaty of Amsterdam: the next step towards gender equality?* Hein Online (1999), pp. 7-8.

<sup>92</sup> *Ivi*, p. 11.

<sup>93</sup> K. S. Zippel, *Gender Equality Politics in the Changing European Union: The European Union Anti-Discrimination Directive and Sexual Harassment*, p. 2.

<sup>94</sup> E. F. Defeis, *The Treaty of Amsterdam: the next step towards gender equality?* Hein Online (1999), p. 12.

The adoption of the Social Charter Action Programme, in 1989, brought about the enactment of further directives related to employment, among which the *Pregnant Workers Directive*<sup>95</sup>, which represented a great achievement, considering that the issues of pregnancy and maternity had not been addressed clearly until that time. In fact, even though the previous amended *Equal Treatment Directive* and the *Goods and Services Gender Directive* incorporated provisions related to maternity and pregnancy rights, they did not specify the direct relationship between the right to equal treatment and pregnancy/maternity. Only later, with the adoption of the *Recast Directive*, there was a partial clarification on such issue, also providing some forms of guarantee for women in case of maternity<sup>96</sup>.

Since the entry into force of the Treaty of Amsterdam, which recognized gender equality as fundamental right of the European Union<sup>97</sup> and led to the adoption of the *Racial Equality Directive* (2000/43/EC) and the *Employment Equality Directive* (2000/78/EC)<sup>98</sup>, the concepts of “empowerment” and “gender mainstreaming” have become cornerstones of the EU’s policy action. Therefore, it emerged the necessity to go beyond the mere guarantee of formal equality and with the adoption of the Charter of Fundamental Rights, which consecrated the prohibition of discrimination based on sex “in all fields, including employment, employment and remuneration” (Art. 21)<sup>99</sup>, gender equality became an integral component of human rights.

Since the 1990s, the shift from a regulatory, top-down approach to a more elastic and flexible one, assuming the existence of a mutually reinforcing relationship between employment legislation and economic growth<sup>100</sup>, led to the adoption of the *European Employment Strategy*, a soft-law instrument aimed at reshaping employment and social policies in several European countries. Decision-makers, instead of focusing on the achievement of low unemployment levels, started to concentrate on increasing the amount of skilled workers actually employed, acknowledging that low employment rates were often the result of a social attitude characterizing many European countries and consisting in low unemployment rate, high wages, high inactivity and women’s exclusion from the labor market<sup>101</sup>. Together with the goal of granting “full employment”, the EES included the “quality”

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<sup>95</sup> C. Barnard, *EU Employment Law and the European Social Model: The Past, the Present and the Future. Current legal problems*. 67.1 (2014): 199–237, p. 209.

<sup>96</sup> A. Masselot, *The state of gender equality law in the European Union*. *European Law Journal*, Vol. 13, No. 2, pp. 152-168 (2007), p. 164.

<sup>97</sup> Ivi, p. 155.

<sup>98</sup> Ivi, p. 153.

<sup>99</sup> A Ciancio, *Parità di genere e partecipazione politica nell’Unione europea. Profili generali*. *Rivista N*, 1(2016), p. 3.

<sup>100</sup> C. Barnard, *EU Employment Law and the European Social Model: The Past, the Present and the Future. Current legal problems*. 67.1 (2014): 199–237, pp. 209-210.

<sup>101</sup> J. S. Mosher and D. M. Trubek, *Alternative Approaches to Governance in the EU: EU Social Policy and the European Employment Strategy* (2003), pp. 64-65.



issue, with the aim to boost productivity in order to counterbalance economic and social players, and social cohesion in the labor market became the third pillar of the EU's structure. These elements were already present in Delors' White Paper on Growth and Competitiveness, which dates back to the early 1990s<sup>102</sup>. The European Employment Strategy, according to the European Commission's draft version of the five-year review about its effectiveness, seemed to strengthen Member states' policy framework, by confirming their commitment in the subject and allowing a paradigm shift towards long-term intervention<sup>103</sup>. It was later included within the so-called *European Social Model*, a wide range of policies related to employment, welfare state, education, social security and so on, and based on the same values enumerated in Article 3 TEU, namely the promotion of “*the sustainable development of Europe based on balanced economic growth and price stability*”(3)<sup>104</sup>. In fact, with the adoption of the Lisbon Treaty, which also recognized the legal value of the Charter of Fundamental Rights, the EU expressly included gender equality among the fundamental values upon which it is based (Art. 2 TEU) and it prohibited, through the implementation of policies and actions, any form of discrimination based on sex (Art. 10 TFEU)<sup>105</sup>. However, despite the EU's engagement to a ‘*social market economy*’, as demonstrated for instance by Article 9 TFEU, which requires the Union to take into account the promotion of “*a high level of employment, the guarantee of adequate social protection, [and] the fight against social exclusion*”, social policy has often been considered in relation to the economic dimension<sup>106</sup>. Only later, EU provisions and social policies started to be considered as an instrument to facilitate a more comprehensive distribution of opportunities, to maximize individuals' ability to access services, resources and possibilities and to guarantee the promotion of equality<sup>107</sup>.

Within the framework of the European Employment Strategy, it started to emerge the concept of “flexicurity”, based on the combination between flexibility and security and conceived as a way to accomplish full employment, but also renovate Member States' labor markets and eliminate jobs'

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<sup>102</sup> J. C. Barbier, *Changes in political discourse from the Lisbon Strategy to Europe 2020: tracing the fate of 'social policy'* (2011), p. 14.

<sup>103</sup> S. Mosher and D. M. Trubek, *Alternative Approaches to Governance in the EU: EU Social Policy and the European Employment Strategy* (2003), pp. 73-74.

<sup>104</sup> C. Barnard, *EU Employment Law and the European Social Model: The Past, the Present and the Future. Current legal problems*. 67.1 (2014): 199–237, pp. 200-201.

<sup>105</sup> A Ciancio, *Parità di genere e partecipazione politica nell'Unione europea. Profili generali* (2016). *Rivista N*, 1(2016), p. 4.

<sup>106</sup> C. Barnard, *EU Employment Law and the European Social Model: The Past, the Present and the Future. Current legal problems*. 67.1 (2014): 199–237, pp. 203-204.

<sup>107</sup> Ivi, p. 204.

segmentation. The notion of flexicurity was then reinforced with the Lisbon Strategy<sup>108</sup>, a set of common goals adopted with the Lisbon Council in 2000, with the aim of raising employment and growth and consolidate environmental sustainability and social cohesion<sup>109</sup>. The general objective promoted by the Lisbon strategy was the EU's transition towards a *knowledge-based* economy by 2010<sup>110</sup>, with a specific focus on economic growth and jobs and providing both a model for the future development of the EU and an adequate policy-making approach to achieve it. The challenge was not only that of making the European Union the most powerful and competitive economy in the world, but also to modernize social protection and to promote social inclusion and benefits<sup>111</sup>.

Later on, the global economic and financial crisis, started in 2010, and the intensification of pressures over European countries, due to globalization, which highlighted the structural weaknesses of Europe's economic and social policies and necessity to work on the future of Europe, led to the adoption of Europe 2020, the growth and employment programme for the period 2010–2020<sup>112</sup>. Europe 2020 comprised three complementary objectives - smart growth, sustainable growth and inclusive growth - and aimed at the promotion of a knowledge-based, greener, more competitive and more cost-effective economy<sup>113</sup>. Overall, the main driver of such strategy was the necessity to create opportunities for everyone, in order to face the challenges posed by global competition, and to boost economic growth, by increasing labor force composition and participation. Moreover, considering the notably low level of employment among women, old workers and young people at that time, due to the economic crisis, it emerged the need to modernize and reinforce the employment sector and the social protection systems, in order to reduce structural unemployment<sup>114</sup>. In fact, the *European Parliament's Report on "Equality between men and women in the European Union"* (2010), underlined the need to "more concrete actions and new policies", calling on Member States and the social partners to promote a more balanced presence of men and women in positions of responsibility in companies, administrations and political bodies. It was followed by the adoption of the "*Strategy*

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<sup>108</sup> A. Gwiazda, *The Europeanization of flexicurity: the Lisbon Strategy's impact on employment policies in Italy and Poland*. *Journal of European Public Policy* (2011), p. 549

<sup>109</sup> W. Kok, *Facing the challenge: the Lisbon strategy for growth and employment*. *Report of the High Level Group*. Luxembourg: Office for Official Publications of the European Communities (2009), p. 8.

<sup>110</sup> F. H. Soriano and F. Mulatero, *Knowledge policy in the EU: From the Lisbon strategy to Europe 2020* (2010), *Journal of the Knowledge Economy*, 1(4), 289-302, p. 289.

<sup>111</sup> M. Daly, *EU social policy after Lisbon*. *JCMS: Journal of Common Market Studies*, 44(3), 461-481 (2006), pp. 465-466.

<sup>112</sup> J. C. Barbier, *Changes in political discourse from the Lisbon Strategy to Europe 2020: tracing the fate of 'social policy'* (2011), p. 16.

<sup>113</sup> Europe 2020 Strategy, p. 3.

<sup>114</sup> Ivi, p. 16.

for Equality: Between Women and Men 2010-2015” and the “Women’s Charter”, presented by the European Commission in 2010<sup>115</sup>.

The enforcement of the *Strategic Engagement for Gender Equality* (2016–19) signed a new phase in EU’s effort to promote gender equality, based on continuous evaluation of the previous 2010-2015 strategy and aimed at the implementation of considerable gender equality policies at national level<sup>116</sup>. During the same period, it was adopted the *Gender Action Plan* (2016-2020), which had the purpose of guaranteeing women’s physical and psychological inviolability; to promote their empowerment at the social and economic level and strengthen their participation; and to generate institutional shifts in order to render EU commitments more effective<sup>117</sup>.

According to the Gender Equality Index 2019, the goal set by Europe 2020 to achieve an employment rate of 75 % equivalent for both women and men is actually illusory, considering women’s still precarious access to employment and their employment rate just above 67 % in 2018, compared to men’s 79 %. In fact, even though men dominate some specific fields but are underrepresented in others, more female-dominated, women’s responsibility for elderly, childcare, and household duties remains a major element of gender inequality in employment<sup>118</sup>.

In March 2020, the European Commission adopted the new *Gender Equality Strategy 2020-2025*, with the primary concern of eliminating the unequal distribution of care work, extensive gender segregation in employment, violence and sexual harassment against women and so on<sup>119</sup>. Such strategy sets out a series of policy objectives towards a *gender-equal Europe*, in order to guarantee to both men and women equal life opportunities and equal participation in the European society, and to end any form of gender-based violence and gender stereotypes, eliminate gender gaps in employment and achieve equal participation at the political and economic level<sup>120</sup>. In fact, gender inequalities still represent the most significant limit to achievement the EU’s employment targets in the future and effective policies at this regard.

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<sup>115</sup> A Ciancio, *Parità di genere e partecipazione politica nell’Unione europea. Profili generali*. *Rivista N*, 1(2016), pp. 6-7.

<sup>116</sup> European Commission, *Strategic Engagement for Gender Equality 2016-2019* (2015), pp. 7-8.

<sup>117</sup> EU Gender Action Plan 2016-2020. Available at <https://europa.eu/capacity4dev/public-gender/wiki/eu-gender-action-plan-2016-2020>.

<sup>118</sup> European Institute for Gender Equality, *Gender Equality Index 2019. Work-life balance* (2019), p. 117.

<sup>119</sup> Z. Blaskó, E. Papadimitriou & A. R. Manca, *How will the COVID-19 crisis affect existing gender divides in Europe* (2020), *Luxembourg: European Union*, p. 4.

<sup>120</sup> European Commission, *Gender Equality Strategy 2020-2025*. [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/gender-equality/gender-equality-strategy\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/gender-equality/gender-equality-strategy_en)

### ***2.1.2. Recent developments and the challenges posed by the COVID-19 pandemic***

The present COVID-19 pandemic has created new and forthcoming challenges for the achievement of gender equality, posing serious threat to the fragile fulfillments made in the last decade. Despite the global and distributed effects of COVID-19 on thousands of people around the world, statistics have shown some important gender differences in terms of mortality and exposure to the virus, also due to the persistence of gender inequalities<sup>121</sup>.

Traditionally, in many European countries, it is widespread that women to take up the greater share of caring duties in respect to men, and, even though the constant increase of women's employment overtime, working mothers are still subject to gender inequalities and share the largest burden of childcare and household duties<sup>122</sup>. In comparison to previous economic recessions, which had more serious effects on men workers than on women in the employment sector, in the current crisis women are suffering more severe consequences. The different family structures have determined different outcomes during the current crisis, not only for what concerns job losses – that could be compensated by a second earner within the family – but also considering schools' closure, which would impact the most families with children, especially in case of single parents. In the case of married couples, the increasing childcare necessities is likely to reinforce existing inequalities between women and men within the family, at the expense of working mothers<sup>123</sup>.

Moreover, women often occupy non-wage, part-time and precarious jobs, more exposed to job losses and the crisis has sometimes implied job losses, forced women to reduce their working hours, also due to households' and childcare necessities, or to temporarily leave their jobs, especially when they could not work from home<sup>124</sup>. Therefore, the relative employment flexibility for both women and men are likely to influence the consequences of the crisis and the ability for men to work from home, especially when their wives could not, has been translated into their higher participation in childcare. Even though the potential positive effects of teleworking on gender equality, in terms of increasing men's participation in household duties and combining work and childcare, women still assume the

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<sup>121</sup> European Institute for Gender Equality (EIGE), *Gender Equality Index 2020. Digitalization and the future of work* (2020).

<sup>122</sup> Z. Blaskó, E. Papadimitriou & A. R. Manca, *How will the COVID-19 crisis affect existing gender divides in Europe, Luxembourg: European Union* (2020), pp. 4-6.

<sup>123</sup> T. M. Alon, M. Doepke, J. Olmstead-Rumsey, and M. Tertilt, *The impact of COVID-19 on gender equality* (2020). National Bureau of Economic Research, pp. 11-13.

<sup>124</sup> Z. Blaskó, E. Papadimitriou & A. R. Manca, *How will the COVID-19 crisis affect existing gender divides in Europe. Luxembourg: European Union* (2020), pp. 8-10.

majority of household duties and are more damaged than men in terms of employment<sup>125</sup>. In the long-term, the increasing pressure on women's jobs would not only intensify the unemployment rate, at the expense of economic development and growth, but it would also strengthen already existing vulnerabilities<sup>126</sup> and reinforce gender stereotypes in many European countries. One of the main constraints behind the persistent unequal division of childcare and domestic duties regards the presence of social norms, which could possibly leave the stance to a more gender-oriented approach.

Worldwide statistics have demonstrated that women are biologically less at risk to suffer the acute effects of COVID-19 in terms of health and medical needs, but more affected by the crisis from the psychological point of view, but also more likely to lose their working occupations and to assume household duties<sup>127</sup>. However, since the majority of women occupy jobs that turn out to be essential during the current crisis, such as nursing, elderly care, or situated in the pharmacy and grocery field, they could probably acquire more visibility and higher social recognition in the long term, perhaps forcing male partners to increase their participation in unpaid work at home<sup>128</sup>. In fact, care professions are actually some of the most unpaid and undervalued jobs in the European Union and women constitute the 76% of healthcare workers, around the 90% of other caring occupations (childcare, elderly care) and the 95 % of housekeepers, occupations on the frontline during the COVID-19 emergence<sup>129</sup>.

Gender-based violence is another phenomenon strongly affecting women and likely to increase in periods of social isolation and crisis, as it is happening during the COVID-19 pandemic, in form of domestic violence. It has been recorded a sudden increase in domestic violence in Europe due to the confinement, which has forced families to spend more time at home, meaning for women to share the same space with their potential abuser. Moreover, the medical emergency has disrupted the health system, weakening the means to cope adequately with this issue. In April 2020, the European Parliament assessed that domestic violence increased by a third in some EU countries during the

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<sup>125</sup> T. M. Alon, M. Doepke, J. Olmstead-Rumsey, and M. Tertilt, *The impact of COVID-19 on gender equality*. National Bureau of Economic Research (2020), pp. 18-20.

<sup>126</sup> Z. Blaskó, E. Papadimitriou & A. R. Manca, *How will the COVID-19 crisis affect existing gender divides in Europe*. Luxembourg: European Union (2020), pp. 8-10.

<sup>127</sup> European Commission, *Coronavirus Pandemic. Impact on Gender Equality* (2020).

<sup>128</sup> Z. Blaskó, E. Papadimitriou & A. R. Manca, *How will the COVID-19 crisis affect existing gender divides in Europe* (2020), Luxembourg: European Union (2020), pp. 10-11.

<sup>129</sup> European Institute for Gender Equality (EIGE), *Gender Equality Index 2020. Digitalization and the future of work* (2020).

lockdown<sup>130</sup> and the World Health Organisation has registered an increase by 60% in calls to European domestic violence emergency numbers. Considering the new challenges in the context of gender equality posed by COVID-19 emergency, which has progressively slowed down the partial growth of employment opportunities for women achieved in last decade, it is necessary to provide concrete gender-related support to women and to adopt a cross-sectoral approach, with the aim to leave no one behind<sup>131</sup>.

## **2.2. International instruments promoting gender equality**

### **2.2.1 The International Labour Organization and the protection of women in the workplace**

In the aftermath of the WW1, women's protection and the principle of equal pay for women and men in employment were included in Preamble to the ILO's Constitution of 1919 as fields requiring prompt action. The International Labour Conference Declaration, adopted in 1994 at Philadelphia and then annexed to the Constitution, proclaimed, "*All human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity*". Therefore, women's rights are at the core of ILO's values, objectives and principles, aimed at promoting social justice and fair work, in conditions of equity, dignity, security and freedom. Along with the evolution of women's role in society, the traditional conception of paid work and unpaid family care work has progressively changed and the ILO has responded to those transformations by assuming a crucial role in the promotion of gender equality in the workplace. Specifically, the ILO has set international labour standards in order to recommend progress at the institutional level, enhance technical cooperation at the global level and the diffusion of relevant knowledge through the adoption of several Conventions. Specifically, the Equal Remuneration Convention (No. 100) and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), together with the Family Responsibilities Convention (No. 156) and the Maternity Protection Convention, 2000 (No. 183), lay down the key mechanisms for attaining gender equality in the workplace<sup>132</sup>.

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<sup>130</sup> European Parliament, *COVID-19: Stopping the rise in domestic violence during lockdown* (2020) Available at: <https://www.europarl.europa.eu/news/en/press-room/20200406IPR76610/covid-19-stopping-the-rise-in-domestic-violence-during-lockdown>

<sup>131</sup> European Commission, *Coronavirus Pandemic. Impact on Gender Equality* (2020).

<sup>132</sup> *ABC of Women Workers' Rights and Gender Equality*, ILO (2007), pp. 3-5.

The emphasis on women's employment has been a subject matter of ILO's Conventions since the creation of the organization, in 1919, and the protection of maternity represents a central issue for the achievement of gender equality, as shown by the above-mentioned Convention No. 183, which analysis this theme. In addition, the adoption of Convention No. 100 (1951) on equal pay, which paved the way to the analysis of structural gender inequalities in the labour market, caused a gradual shift in attention from the protection of women to the promotion of equality and the improvement of working conditions in the workplace for both sexes with an equal treatment.

At that time, women were considered more vulnerable than men and not adequate for some jobs, especially for activities that might threaten their health or their responsibilities related to motherhood. Therefore, ILO's instruments established minimum standards related to maternity leave, providing at the same time some benefits for mothers and, since the 1960s, women's increasing participation in the labour market led to the recognition of gender equality in relation to the equal distribution of family responsibilities between both sexes. The adoption of the *Recommendation No. 123 on women with family responsibilities* reflected those changes, facilitating women workers to accomplish their responsibilities without discrimination, followed by Convention No. 175 and the Recommendation No. 182 (1994), which established the principle of equal treatment in both full- and part-time employment, considering that women cover the majority of part-time jobs. Such framework was then completed by the adoption of Convention No. 177 and Recommendation No. 184, regarding home workers (1996), the majority of which are women, and Convention No. 182 and Recommendation No. 190, which prohibited child labour. Finally, it was adopted the Maternity Convention (No. 183), one of ILO's main equality Conventions, mentioned above, according to which Member States should ensure that motherhood or pregnancy do not represent an obstacle for women's participation in the labor market<sup>133</sup>.

Later on, the *Resolution on gender equality, pay equity and maternity protection* (2004) rendered gender equality mandatory in all the activities based on technical cooperation promoted by ILO<sup>134</sup> and the *ILO Convention on Domestic Workers* (2011), reinforced the policy framework related to gender equality in the economic sphere, acknowledging that the majority of domestic workers are women. It also specified which elements needed to be included in a job contract and requested explicit provisions regarding the minimum wage and the age threshold<sup>135</sup>.

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<sup>133</sup> *ABC of Women Workers' Rights and Gender Equality*, ILO (2007), pp. 8-10, 15.

<sup>134</sup> *Ivi*, p. 4.

<sup>135</sup> G. Koehler, *Tapping the Sustainable Development Goals for progressive gender equity and equality policy? Gender & Development*, 24(1), 53-68 (2016), p. 61.

The Conventions and Recommendations adopted within the ILO's framework contribute consistently to the promotion of gender equality, since they reached international consensus on some minimum standards, some of which refer to both sexes' workers and some others specifically allude to women workers. The concept of gender equality in employment does not pretend to consider women and men as identical, but rather aims to give equal recognition and values to both sexes, considering their different needs and capacities<sup>136</sup>.

### ***2.2.2. The Beijing Declaration and Platform for Action (1995)***

The Beijing Declaration and Platform for Action, signed in 1995, during the United Nations Fourth World Conference on Women in Beijing, established the principle of equal participation of women and men in decision-making for the first time. It represented the first attempt to achieve women's empowerment and inclusion in the political sphere, promoting gender equality not only as a legitimate requirement but also as a corrective, relating women's inclusion to the democratic and judicial sphere. The Platform expanded the previous Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) to specific areas of public participation and affirmed the necessity to take action to grant women's access to all those sphere of power and authority previously closed to them<sup>137</sup>. Moreover, the UN Commission on the Status of Women (CSW) acted as preliminary committee for the Beijing Conference and it adopted comprehensive measures to negotiate an exhaustive Platform for Action<sup>138</sup>.

The problems women were facing at that time were more complex than that addressed during the 1888 first International Council of Women, which took place in Washington DC, due to the changing perspective of the world, from a nationalistic and singular one, to a more dynamic and international context in the twentieth century. During the Beijing Conference, it was clear that the new challenge was to "*make existing laws take effect in the daily lives of women*", as the UN Deputy Secretary, Ismat Kittani, pointed out during his inaugural speech. Therefore, it emerged the opportunity for the international community to reaffirm, strengthen and support women's rights within the international

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<sup>136</sup> *ABC of Women Workers' Rights and Gender Equality*, ILO (2007), p. 13.

<sup>137</sup> E. Lèpinard and R. Rubio-Marin, *Transforming gender citizenship: The irresistible rise of gender quotas in Europe*, Cambridge University Press (2018), pp. 1-2.

<sup>138</sup> E. L. Larson, *United Nations Fourth World Conference on Women: Action for Equality, Development, and Peace*. Beijing, China. *Emory Int'l L. Rev.*, 10, 695 (1995), p. 696.



human rights framework and to reinvigorate the power obtained during previous UN women's conferences, by focusing on consistent strategies to implement the Conference's goals<sup>139</sup>.

Even though since the establishment of the United Nations, human rights' preservation has been codified into law through the adoption of several international treaties, starting from the UN Charter, the UN was not equipped with a monitoring body in order to enforce these human rights provisions and scrutinize any kind of discrimination against women<sup>140</sup>. Therefore, following the 1948 Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted in 1966 and probably the main soft law instrument related to the economic and social sphere<sup>141</sup>, the UN General Assembly adopted The Declaration on Elimination of Discrimination Against Women (1967), previously drafted by the Commission on Women.

Some years later, considering the more remarkable recognition of women's marginalization at the international level, the UN GA finally approved, in 1979, the CEDAW (Convention on the Elimination of All Forms of Discrimination, as Against Women), a binding commitment with the legal force of a treaty, with the purpose to provide specific international standards entirely for women<sup>142</sup>. The CEDAW expanded the previous ICESCR (*International Covenant on Economic, Social and Civil Rights*), incorporating economic provisions such as the right to work, the right to equal pay and equal treatment, the right to social security and health protection and established the right to maternity leave<sup>143</sup>. Moreover, the CEDAW recognized the gender-based violence (GBV) phenomenon, defined as “*physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or in private life*” (article 1, UN Declaration on the Elimination of Violence against Women, 1993)<sup>144</sup>.

The purpose of UN world conferences on women was to combine different systems, traditions and cultures in order to reach a kind of agreement on issues related to women, through non-binding documents. The aim was, on the one hand, to strengthen human rights conventions protecting women and, on the other hand, to raise new emerging concerns at this regard<sup>145</sup>. The Platform For Action,

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<sup>139</sup> M. Plattner, *The Status of Women Under International Human Rights Law and the 1995 UN World Conference on Women*. Beijing, China (1995), pp. 1249-1250.

<sup>140</sup> Ivi, p. 1251.

<sup>141</sup> G. Koehler, *Tapping the Sustainable Development Goals for progressive gender equity and equality policy? Gender & Development*, 24(1), 53-68 (2016), p. 60.

<sup>142</sup> M. Plattner, *The Status of Women Under International Human Rights Law and the 1995 UN World Conference on Women*. Beijing, China (1995), pp. 1251-1255.

<sup>143</sup> G. Koehler, *Tapping the Sustainable Development Goals for progressive gender equity and equality policy? Gender & Development*, 24(1), 53-68 (2016), pp. 60-61.

<sup>144</sup> UN Women, *Gender equality and women's empowerment: constitutional jurisprudence* (2017), pp. 13-14

<sup>145</sup> M. Plattner, *The Status of Women Under International Human Rights Law and the 1995 UN World Conference on Women*. Beijing, China (1995), p. 1262.

adopted at the Beijing Conference, provided strategic measures to achieve the conference's objectives of equality, development and peace, which are at the basis of human rights' protection and, therefore, women's rights. In particular, the PTA identified twelve critical areas of concern for women, including women's participation in the workforce and their participation in decision-making, the influence of mass media in creating stereotypes about women, the impact of the environment and development on women's lives and women's discrimination in social and educational issues<sup>146</sup>. At that time, it was doubtful whether the UN Platform enforced in Beijing would make a difference in women's international protection, considering its non-legally binding character, which renders the implementation of the PTA more difficult to obtain, also considering that previous conferences on women had not reached ambitious goals<sup>147</sup>.

Twenty years after the adoption of the Beijing Declaration and Platform for Action, many states parties have incorporated principle of gender equality and the prohibition of all forms of discrimination based on sex in their Constitutions. Moreover, some states have included provisions to develop specific domains of gender equality, such as women's political representation, the access to justice, social rights and economic guarantees, equality at the familiar level and so on<sup>148</sup>. However, many restrictions present at that time are still in place today at the global level and despite some progresses and positive action taken by governments, overall it has been detected a serious stagnation, with slow and inconsistent implementation and no sign of comprehensive change. The key challenge has been the absence of economic resources, both at the national and international level, to implement the Platform for Action and the recent global developments, politically and economically have been exceptionally hard to encounter. Therefore, women continue to be victims of gender-based violence and discrimination in many contexts and societies and the most urgent challenge for the 21th century is to create and guarantee gender equality for the coming generations<sup>149</sup>. Today's world is very different from that in which the Beijing Declaration was adopted and the changes occurred in the last twenty years, at the social, political, economic and technological level have generated new challenges in the context of gender equality. The solution might be a change of paradigm, leaving aside the unequal diffusion of resources, power and opportunities that enforce gender inequality towards the creation of peaceful and long-standing societies, in order to strengthen the implementation of the Platform for Action<sup>150</sup>. The recommendations included in the 20-year review of the Beijing

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<sup>146</sup> M. Plattner, *The Status of Women Under International Human Rights Law and the 1995 UN World Conference on Women*. Beijing, China (1995), p. 1262, pp. 1264-1270.

<sup>147</sup> Ivi, p. 1274.

<sup>148</sup> UN Women, *Gender equality and women's empowerment: constitutional jurisprudence* (2017), p. 12

<sup>149</sup> UN Women, *The Beijing declaration and platform for action turns 20* (2015), pp. 6-7.

<sup>150</sup> Ivi, p. 49.

Declaration and Platform for Action inspired the third UN-Women strategic plan, adopted in 2017 and covering the period 2018-2021, with the aim to achieve gender equality and women's empowerment and to implement the goals set in the 2030 Agenda for Sustainable Development<sup>151</sup>.

### ***2.2.3. The UN Sustainable Development Goals***

Nowadays, even though the recognition of the universal right to equality, established by the 1948 Universal Declaration of Human Rights, as an inalienable principle, it is still not clear the category of policies needed to achieve gender equality<sup>152</sup>. Over time, several international declarations and conventions have defined women's rights as political rights, which include the notion of gender equality, achievable through the guarantee of social rights, intended as the access to employment, decent work and social protection. Moreover, the adoption of many soft-law instruments related to human rights and labor standards, elaborated by international UN entities, such as the International Labour Organization, and international human rights bodies, has provided a solid basis for enactment the rights-based policies<sup>153</sup>.

Since the 1970s, there has been the launch of many initiatives to assess the development of Member States' performance in achieving gender equality standards. The most ambitious of them has probably been the adoption of the eight Millennium Development Goals (2000–2015), followed by the Sustainable Development Goals (SDGs), presented in 2016 as '*a universal call to action to end poverty, protect the planet, and ensure that all people enjoy peace and prosperity*'<sup>154</sup>. Many observers have affirmed the failure of the Millennium Development Goals (MDGs) to achieve gender equality, especially in relation to women's empowerment, especially due to their incapacity to cope with the deep-rooted factors that carry on women's disadvantage. The adoption of the new Sustainable Development Goals (SDGs), composed by 17 goals and 160 and part of the 2030 Agenda for Sustainable Development, represented an advancement over the MDGs<sup>155</sup>.

The idea of *sustainable development* first appeared in the Brundtland Report (UNWCED, UN World Commission on the Environment and Development, 1987), defined as a leading principle human

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<sup>151</sup> UN Women, *Inter-Parliamentary Union* (2019), pp. 2-3.

<sup>152</sup> G. Koehler, *Tapping the Sustainable Development Goals for progressive gender equity and equality policy? Gender & Development*, 24(1), 53-68 (2016), p. 54.

<sup>153</sup> Ivi, p. 60.

<sup>154</sup> B. Agarwal, *Gender equality, food security and the sustainable development goals. Current opinion in environmental sustainability*, 34, 26-32 (2018), p. 26.

<sup>155</sup> S. Fredman, J. Kuosmanen, & M. Campbell, *Transformative equality: Making the sustainable development goals work for women. Ethics & International Affairs*, 30(2), 177-187 (2016), p. 177.

development and environmental issues<sup>156</sup>. The SDGs strategy, from a positive perspective, has partially broadened the concept of development, considered not only as a purely economic process, but also as incorporating the social and political sphere and, most significantly, the notion sustainability and requiring multi-level policy responses. Twenty-four of the 160 SDG targets explicitly refer to gender concerns. For instance, Goal 10 is devoted to the economic, social and political inclusion and equal treatment of everyone, regardless of age, sex, ethnicity, religion, economic status, while Goal 5 is explicitly committed to the achievement of gender equality and the elimination of all forms of discrimination and violence against women, both in the public and private sphere. The SDGs also include the education and health sector, establishing the already promised objective, since the 1948 Universal Declaration of Human Rights, to achieve educational gender equality by 2030<sup>157</sup>. In fact, the 2030 Agenda incorporates the human-rights-based approach of the Universal Declaration of Human Rights and the other international treaties regarding human rights and points out the importance of women's empowerment for economic development, which is not possible “*if one half of humanity continues to be denied its full human rights*”<sup>158</sup>. Moreover, according to the Office of the United Nations High Commissioner for Human Rights, it is necessary to refer to the concept of “substantive equality” in order to achieve the full human potential and sustainable development<sup>159</sup>.

Overall, even though SDGs have improved the gender equality framework, they have not been very successful in the implementation phase, giving guidelines for the adoption of social services, family, health care and labor market policies and strengthen existing policies related to gender equality<sup>160</sup>. Moreover, the lack of adequate progress in the context of structural elements at the basis of gender inequality, such as legal discrimination, low level of women's inclusion in decision-making and low political participation, discrimination related to health care and so on, threaten the possibility to realize SDG 5. Even though in the past twenty-five years, there has been the adoption of new laws and the reform of existing ones towards the achievement of gender equality, there are still gender

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<sup>156</sup> J. Bebbington & J. Unerman. *Achieving the United Nations sustainable development goals*. *Accounting, Auditing & Accountability Journal* (2018), p. 2.

<sup>157</sup> G. Koehler, *Tapping the Sustainable Development Goals for progressive gender equity and equality policy? Gender & Development*, 24(1), 53-68 (2016), pp. 54-58.

<sup>158</sup> United Nations, *Transforming Our World: The 2030 Agenda for Sustainable Development*. UN document A/RES/70/1, “Preamble,” para. 10 (2015).

<sup>159</sup> S. Fredman, J. Kuosmanen, & M. Campbell, *Transformative equality: Making the sustainable development goals work for women*. *Ethics & International Affairs*, 30(2), 177-187 (2016), p.180.

<sup>160</sup> Ivi, p. 185.

gaps in place, considering that women's persistent exclusion from decision-making<sup>161</sup> and their underrepresentation at the regional, national and global level of governance. Since gender equality is a remarkable feature of 2030 Agenda, through the SDGs' implementation, it would be necessary to provide appropriate and reliable information about women's status and demonstrate great commitment at the political level, in order to guide the adoption of measures to address gender inequality and handle the desired effects<sup>162</sup>.

#### ***2.2.4. The G20 and women's empowerment***

The G20 represents a global economic forum, created to address the most compelling challenges the global economy is facing today and to prevent financial crisis in the future, but also to achieve inclusive, sustainable and collective growth. Initially, the G20 agenda did not include policies related to gender equality nor expressly committed to women's empowerment and inclusion. For instance, women's representation within the G20 was unbalanced, considering that only the 25% of its members were women. However, since widespread economic policies are likely to produce different outcomes for women and men, it has progressively emerged the need to adopt a gender-based approach<sup>163</sup>, culminated with the Los Cabos Declaration (2012), by which the G20 fully engaged to the elimination of barriers to women's economic participation and social protection and in the access to education and financial services<sup>164</sup>. The aim to address gender equality in the context of international economic governance was later reinforced with the creation of W20 in 2013, under the leadership of G20, which includes women representative of the business sector, international organizations, think tanks, civil society, and so on, coming from G20 Member States. At that time, the G20 was still facing the effects of the global financial crisis erupted some years before and struggled to act as an equally effective body for the recovery of the world economy. Therefore, driven by the ambition to broaden its scope of intervention beyond the crisis-resolution, it emerged the need to treat economic policies in neutral terms, evaluating their societal impacts and promoting behavioral change at the governmental level in order to boost global economic growth. At this regard, the

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<sup>161</sup> UN Department of Economic and Social Progress, *Progress on the Sustainable Development Goals. The gender snapshot 2019* (2019), pp. 10-11.

<sup>162</sup> UN Department of Economic and Social Progress, *Progress on the Sustainable Development Goals. The gender snapshot 2019* (2019), pp. 10-11, p. 21.

<sup>163</sup> J. Heintz, *Missing women: The G20, gender equality and global economic governance*. Political Economy Research Institute, University of Massachusetts at Amherst (2013), p. 3.

<sup>164</sup> S. Wakefield, *The G20 and Gender Equality: How the G20 can advance women's rights in employment, social protection and fiscal policies* (2014). Oxfam International, p. 4.

promotion of gender equality has gradually become one of G20's core priorities, towards to achievement of '*inclusiveness, strong, sustainable, balanced and inclusive growth*'<sup>165</sup>.

In 2015, the Turkish presidency of G20 established Women 20 (W20), an official G20 engagement group, which is part of the process but independent from governments. The major objective of W20 is to ensure that gender deliberations are integrated into G20 discussions and G20 Leaders' Declaration as policies and commitments that encourage gender equality and women's economic empowerment. By 2019, globally women represented on average the 25% of members in Parliaments among G20 Member states, and in 19 out of them, women have the same political rights as men in Parliaments. Almost 50% of G20 countries have introduced gender quotas as incentive for women's political participation and to promote their further representation. However, the gender pay gap is still high: in 18 out of 20 G20 Member states women earn 15% less than men and globally, only 55% of women are included in the labor market in contrast to men (78%)<sup>166</sup>.

Over the last five years, W20 has contributed to render gender equality – previously considered as a marginal concern - a core issue within the global economic framework, which has become gender-responsive and sensitive to women's economic participation<sup>167</sup>. In particular, W20 recommendations have progressively dealt with labor inclusion, financial inclusion and digital inclusion<sup>168</sup>. In order to achieve labor inclusion, G20 leaders have established the "25 x 25 target", with the scope to reduce by 25% the gender gap in the workforce by 2025, and implemented plans in relation to unpaid care work, introducing maternity leave policies and offering protection against sexual harassment and violence in the workplace. While progress seems promising and results show a considerable reductions in gender gap in employment - even if not homogeneous among countries – the same could not be said in relation to job quality and working conditions. By contrast, progress towards the improvement of women's financial independence and inclusion has been overall heterogeneous among G20 members, even though much more is still required. Finally, even though many G20 governments have understood the great importance of eliminating digital gender divides and enhancing women's access to digital information and technologies, a common methodology is still lacking.<sup>169</sup>

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<sup>165</sup> P. Subacchi & S.H. Rimmer, *New Frontiers in Gender-responsive Governance. Five years of the W20*. Chatham House. The Royal Institute of International Affairs, Global Economy and Financial Department (2018), pp. 2-4.

<sup>166</sup> About W20 — Women20 ([w20saudiArabia.org.sa](http://w20saudiArabia.org.sa));

<sup>167</sup> P. Subacchi & S.H. Rimmer, *New Frontiers in Gender-responsive Governance. Five years of the W20* (2018). Chatham House. The Royal Institute of International Affairs, Global Economy and Financial Department, p. 15.

<sup>168</sup> C. Lopez & O. Contreras, Gender Equality Discussion within the G20. *Milken Institute W, 20* (2020), p. 1

<sup>169</sup> Ivi, pp. 4-8.

Despite the achievement of some positive results, progress made in the past years need should be evaluated in perspective, not only considering the persistence of gender gaps, but also the fact that the ‘25 by 25’ target is the only explicit goal set to cope with such issue and has not been implemented as it could have been . Moreover, Member States have not demonstrated significant involvement at the national level towards the adoption of policies aimed at increasing women’s participation in the labour market and the improvement of their educational and financial conditions and progress is still too slow. Moreover, these domestic policies need to be internationally coordinated to ensure that action and benefits are widespread<sup>170</sup>.

The creation of a global regulatory framework on gender equality, perhaps based on or inspired by the UN SDGs, would be useful to in order to identify specific goals for each country and systematically assess the progresses made, but also ensure policies’ coordination and coherence between the recommendations coming from the G20 and interventions of other international institutions. Moreover, the increasing participation of women in decision-making, both in the public and private sector, would imply a shift in leadership and, in order to achieve such goal, additional and relevant policies, translated into actual implementable programs, would be necessary, to create a women-friendly environment and support women when they assume decision-making responsibilities<sup>171</sup>.

### ***2.3. COVID-19: the effects on gender divides in and outside Europe***

The current economic crisis, due to the COVID-19 emergency, has reinforced existing weaknesses characterizing developing and under-developed countries - more financially and technically disadvantaged and, thus, more vulnerable to the effects of the pandemic - and slowed down the implementation of SDGs. At this regard, The United Nations have launched a plan with the aim to “*defeat the virus and build a better world*”, calling for international solidarity and requiring major economies to adopt “*coordinated, decisive, inclusive and innovative policy action*” to support the most fragile and poor ones<sup>172</sup>. In fact, COVID-19 is leading to unprecedented economic and social consequences, probably worse than that caused by the 2007–2009 financial crisis and according to a

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<sup>170</sup> P. Subacchi & S.H. Rimmer, *New Frontiers in Gender-responsive Governance. Five years of the W20*. Chatham House. The Royal Institute of International Affairs, Global Economy and Financial Department (2018), p. 16.

<sup>171</sup> C. Lopez & O. Contreras, Gender Equality Discussion within the G20. *Milken Institute W*, 20 (2020), p. 3.

<sup>172</sup> UN. ORG, *UN Launches COVID-19 Plan that Could ‘Defeat the Virus and Build a Better World’* (2020).

recently released working paper estimates, for the first time since 1990, global poverty will rise again significantly<sup>173</sup>.

As abovementioned, the COVID-19 pandemic is affecting the implementation of SDGs, in terms of poverty (SDG 1), global hunger (SDG 2) but also global peace and justice (SDG 16), undermined by increasing the likelihood of conflicts, in and outside national borders. At this regard, on 5 April, the UN Secretary General invited the global community to ceasefire ongoing conflicts and end violence elsewhere, in order to focus all the resources and efforts to counter the COVID-19 pandemic. However, violence is not intended only within wars, but also inside the houses as domestic violence, which has risen significantly during the current crisis, exacerbated by the lockdown, the closure of school and activities and the increasing time spent at home<sup>174</sup>. Moreover, the lack of adequate infrastructures and medical equipment, especially in countries with precarious health systems, is threatening hospitals and interdicting the treatment of other diseases, causing a rise in mortality rate and compromising the achievement of SDG 3 (Good health and well-being). The current crisis has also lead to the suspension of economic activities around the world, harming many countries' economy (SDG 8, Decent work an economic growth), and the closure of schools and universities, affecting the 80% students around the world and undermining the right to education (SDG 4). Even though the attempt, in many countries, to develop forms of online education, distance learning has sometimes been constrained, especially in developing countries where students often do not have personal computers or access to internet, undermining the quality of education. At the time, the COVID19 pandemic is affecting global inequalities (SDG 10), in terms of income, wealth, available resources, leading to increasing poverty and affecting the achievement SDG 6 (proper sanitation and clean water for everyone)<sup>175</sup>.

In addition, twenty-five years after the adoption of the Beijing Platform for Action, is emerging the risk of deepening existing gender inequalities and vanishing the results achieved in the recent decades, but also the enforcement of SDG 5 (gender equality). In fact, women are more vulnerable than men to the social, economic and political outcomes of the pandemic and more exposed to its impacts, often just because of their sex. At this regard, the UN Secretary General has underlined the necessity to guarantee women's equal participation in decision-making and planning to counter COVID-19; the implementation of transformative changes towards gender equality, also in terms of both paid and

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<sup>173</sup> W. Leal Filho, L. L. Brandli, A. Lange Salvia, L. Rayman-Bacchus, & J. Platje, *COVID-19 and the UN sustainable development goals: threat to solidarity or an opportunity? Sustainability*, 12(13), 5343 (2020), pp. 4-5.

<sup>174</sup> UN Secretary General. *The Impact of COVID-19 on Women. Policy Brief* (2020), p. 17.

<sup>175</sup> W. Leal Filho, L. L. Brandli, A. Lange Salvia, L. Rayman-Bacchus, & J. Platje, *COVID-19 and the UN sustainable development goals: threat to solidarity or an opportunity? Sustainability*, 12(13), 5343 (2020), pp. 6-7.



unpaid work; and the inclusion of women in the efforts taken to cope with the socio-economic consequences of the crisis. In fact, emerging evidence suggests the disproportionately greater economic impact of COVID-19 on women, which usually have less paid and less secure occupations, and are more involved in unpaid housework –often recognized as a main driver for inequality - than men. The situation is even worse in developing and under-developed countries<sup>176</sup>.

Overall, the effects of COVID-19 would probably be deeper and long lasting than those of the 2008–2009 global financial crisis, causing serious challenges and threats to the global economy and undermining the advancement of less industrialized and less developed countries. Therefore, the current situation highlights the need for a global and collective response and the United Nations is requiring rich countries to support the poor ones, in a perspective of solidarity, even though international solidarity has not always been stable at the global level<sup>177</sup>. Moreover, in order to implement SDGs in the post-pandemic world and avoid prioritizing some of them and leaving behind some others, it would be necessary to adopt adequate policies aimed at sustainable and inclusive development and to promote economic investments, environmental initiatives, and job creation, following a cost-effective approach<sup>178</sup>.

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<sup>176</sup> UN Secretary General. *The Impact of COVID-19 on Women. Policy Brief* (2020), pp. 2-4.

<sup>177</sup> Ivi, p. 8.

<sup>178</sup> E. B. Barbier & J.C. Burgess, *Sustainability and development after COVID-19* (2020) *World Development*, 135, 105082, pp. 1-2.

## *Chapter 3*

### *The historical evolution of the Italian legal system*

#### *3.1. The role of the Church and the Italian traditional family until the entry into force of the Constitution in 1948*

Italy is characterized by a Southern European social policy system, based to a great extent on a family-oriented model of welfare state, according to which family is the institution of welfare production and of distribution of both income and services. Despite the adoption of legislation related to gender equality, with the specific aim to guarantee effective parity between men and women in every sector of society, women's inclusion, representation and participation in Italy is still low and precarious. The importance of the family in the Italian system is based on the traditional concept of gender contract, according to which men are the breadwinners, while women are the primary care providers of the family, leading to an unequal sharing of family and household duties<sup>179</sup>.

The position of the Church in relation to sexuality and the role of women within the family has always had a substantial effect in the evolution of the Italian legal system. Since the unification of Italy, in 1861, there has been a progressive shift the relation between the Vatican and the State, clarified with the adoption of the Lateran Treaties in 1929, which later became part of the Italian Constitution, adopted in 1946. With the Lateran Treaties, Italy became a liberal state and “Catholicism and liberalism were regarded as being in fundamental disagreement”. In fact, the Lateran Treaties formalized the relationship between the Church and the Italian State, which already existed since the beginning of the 20<sup>th</sup> century and, even though they partially solved the past conflicts between the two, establishing a new legal basis, the Lateran Treaties also underlined the dominant position of the Church and its political importance<sup>180</sup>.

The commonly known as *Legge Carcano*, Law N.242 of 1902, has been the first law recognizing pregnancy as a distinctive feature of lawmaking regarding women. However, according to the socialists, it represented an unsatisfactory attempt to put together all precedent legislation in such field. In fact, it established a compulsory maternity leave period of one month for mothers after the birth, which could be reduced to three weeks in exceptional situation, but did not provide any provision related to the period preceding the birth nor any financial compensation for the period spent without working. Actually, at that time, Italian workers were the least protected compared to other European countries, with more working hours and lower wages. Even though *Legge Carcano*, which

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<sup>179</sup> S. Velluti, *Promotion of gender equality at the workplace* (2008), p. 196.

<sup>180</sup> L. Caldwell, *Italian family* (1991), pp. 8-9, 13.

was the result of a deal between the Socialists and the government, was widely criticised for failing to tackle the issues at the basis of such legislative plan, it constituted an initial step moved by the Italian State to deal with women's rights as workers. Some years later, with the adoption of Law n. 520, 1910, there was the creation of the *Cassa di Maternità*, an insurance fund, which became operational since 1911, with the aim to provide a subsidy to women during the maternity leave period, compensating the work off time. The money part of the fund was accumulated through an annual compulsory donation by each worker and was divided between company and worker<sup>181</sup>.

Only later, during the Fascist regime in the 1930s and early 1940s, there has been the adoption of clear policies towards the family, with the aim to reverse the decline in fertility; to strengthen the authoritarian structure of the family centered on the husband/father; and finally to make the family a directly committed and responsible institution in the face of the objectives and values of the regime<sup>182</sup>. Moreover, at that time the necessity to address women's protection and to introduce state services favorable for them became more explicit, recognizing women-as-mothers as requiring special types of protection. In fact, with the adoption of respectively Law n. 653 and Law n. 1347 in 1934, both related to working women, there was the extension of the compulsory maternity leave period to one month before the birth and six weeks after (three months for office workers), with the possibility to have an extra month in case of illness because of mother. Moreover, it was stressed the right for women to maintain their job during the whole period, in order to prevent employers from firing them. In this way, on the one hand, the State emphasized its responsibility towards women's protection, both as mothers and as workers, and on the other, it somehow restricted female participation in some labour market's sectors. In fact, during the fascist period, there was an increase in female employment only in the agricultural sector<sup>183</sup>.

Finally, with the transformation of Italy into a Republic, in 1946, women's role in society and the need for renewal of the Italian family started to assume some importance and the struggle for legal change became a primary focus of discussion and the Italian Communist Party (PCI) was mainly focused on family and necessity for it to change, but also on women's emancipation and their rights to work and to have a waged occupation. However, the opposition of the Church towards women's *status* outside home and the emphasis on the importance of the traditional family has often constituted a great issue of conflict with the Communists. In fact, the Church has often emphasized the rigidity

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<sup>181</sup> L. Caldwell, *Italian family* (1991), pp. 103, 105.

<sup>182</sup> C. Saraceno, *Mutamenti della famiglia e politiche sociali in Italia*. Il Mulino (2003), p. 16.

<sup>183</sup> L. Caldwell, *Italian family* (1991), pp. 107-108.

of fixed roles between women and men and the identification of women with motherhood, according to the traditional conception of the family based on marriage and the division of roles<sup>184</sup>.

On the other hand, according to the communists' view, the process of women's emancipation regarded the same areas claimed by men, such as the participation in political life, employment and social relations outside the home. Even though such view ignored the designation for women to housework and childcare, the PCI's emphasis on women's greater involvement in the sphere of work was not considered in antithesis to the family, but rather as an instrument to support and strengthen it: "*If Italian democracy wants to make a name for itself as a new democracy - anti-fascist, popular, progressive - it has to emancipate women. Democracy needs women and women need democracy*"<sup>185</sup>.

The reluctance and hostility by all the successive governments, since the post-war period, towards a social policy directed to the family could be largely explained by the fascist legacy and the desire to distance themselves from the previous experience. Even though Republican Italy has been more focused on the elimination of the few positive support offered by the regime to families – such as family allowances, tax allowances for dependent family members and so on - than to intervene with positive action, both at a practical and legislative level, it aimed at changing gender inequalities within the family and facilitating the autonomy of children<sup>186</sup>.

In Italy, the implementation of the principle of gender equality in the workplace and that of equal pay have actually not been the result of deliberate and targeted legislation in response to social and political demands for equality, but rather a consequence of the adoption of the Constitution, which entered into force in 1948<sup>187</sup>. Despite the different positions of the main political parties at that time – the Christian Democrats, on the one hand, and the Communists, on the other - the adoption of the Constitution led to the recognition of the principle of equality (Art. 3), as a democratic principle at the basis of the Italian Republican State. The aim of the founding fathers was to establish a democratic framework through the exercise of freedom and equality and the prohibition of any form of discrimination based on gender, religion and other parameters. The affirmation of equality in this sense assumed particular significance, considering that the Constituent Assembly has been the first truly representative assembly composed by both women and men in Italy, and women actually contributed to the drafting of the Basic Charter, by being particularly attentive to the declination of the equality paradigm<sup>188</sup>. Within the parameters set out in Article 3, those of sex and religion seem

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<sup>184</sup> L. Caldwell, *Italian family* (1991), p. 22.

<sup>185</sup> Ivi, pp. 28-31, 37-39.

<sup>186</sup> C. Saraceno, *Mutamenti della famiglia e politiche sociali in Italia*. Il Mulino (2003), p. 16.

<sup>187</sup> S. Velluti, *Promotion of gender equality at the workplace* (2008), p. 196.

<sup>188</sup> G. Pino & A. Schiavello, *Le discriminazioni di genere nel diritto italiano* (2015), pp. 83-84, 87.

to be disconnected but in reality have a deep connection, both being affected by a partial and ambiguous implementation. With respect to a possible religious approach of the Constitutional Charter, the founding fathers have long been confronted with the problem of the relationship between State and the Church, with a strong influence of the religious factor on the State, not corresponded to the constitutional formalization of the principle of secularism. In fact, affirming equality beyond religion should mean declaring the principle of secularism of the State, but in this context the examination of the constitutional fact highlights the total lack of any explicit reference to the principle of secularism, and the term secularism or secularism never appears in the entire Constitutional Charter<sup>189</sup>.

In addition, Art. 3 (par. 2) also introduced the principle of equal opportunities for women and men, broadening the concept of equality and extending it to the employment sphere, to which also Art. 37 (par. 1) makes reference, with the introduction of the principle of equal pay and equal treatment in the workplace<sup>190</sup>. However, the legislative framework proposed by the newly adopted Constitution inevitably affected the different role of mothers and fathers in the labor market, especially considering the lower participation of women that have children, but also a progressively higher rate of abandonment of work as the family load increased. In fact, maternity is a delicate phase for women to remain in the working market, not only because it is related to the expiry of the contractual term, but also due to the low or reduced employment opportunities for a working mother<sup>191</sup>. When the Italian Constitution was originally drafted, there were some disagreements regarding how to include family within the Constitution, also considering the strong influence of Catholicism upon family principles and its “natural” composition. In the end, the definitive version of the Constitution recognized women’s role within the family as essential and specified the state’s responsibility to protect women as mothers<sup>192</sup>, referring Title II to ethical and social relations and, in particular, to family relations. In particular, Art. 29 recognizes family and the related rights as the natural form of society based on marriage, while Art. 30 refers to parents’ duties in front of their children, considering both of them in a position of substantial equality, even though at that time the parental authority could only be assumed by fathers and not by mothers<sup>193</sup>.

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<sup>189</sup> G. Pino & A. Schiavello, *Le discriminazioni di genere nel diritto italiano* (2015), pp. 96-97

<sup>190</sup> Faioli M. Faioli and L. Rebuzzini, *Working papers della Fondazione Brodolini, Conciliare vita e lavoro: verso un welfare plurale* (2010), p. 52

<sup>191</sup> P. Bozzao, *Le questioni di genere nella protezione sociale del lavoro discontinuo* (2010), p. 408.

<sup>192</sup> L. Caldwell, *Italian family* (1991), pp. 62-64.

<sup>193</sup> G. Pino & A. Schiavello, *Le discriminazioni di genere nel diritto italiano* (2015), pp. 88-90.

### 3.2 From the 1950s until today

In the immediate postwar period, women's employment started to decline considerably and by 1951, women constituted only one quarter of the workforce. Such situation demonstrated the permanent level of unemployment, a large proportion of which constituted by home workers (women) and women's underemployment in industries. Therefore, the reform of the law related to working mothers was both a strategic and an apparently popular choice, which facilitated the triumph of the parliamentary proposals<sup>194</sup>.

Since the 1950s, the adoption of Law n. 850 in 1950 and the so-called *Parity Law* – Law n. 903 (1977) – emphasized both the use of legislative instruments in the interest of women and the demand for legal change coming from political mobilization. In fact, since the nineteenth century, pressure towards the State's responsibility for the adoption of special norms regarding women workers has characterized legislation concerning both work and women, which highlighted women's necessity of special protection in relation to employment. For instance, the recognition of forms of protection and benefits in case of pregnant women and for post-natal mothers started to be generally accepted. For instance, Law N.860 of 1950 (considered one of the most advanced protective laws in Europe), established a period of paid leave of six weeks before and eight weeks after the birth for pregnant workers and an additional period for industrial workers and agricultural ones, if required. Moreover, it provided a subsidy equivalent to the eighty percent of the normal wage and prohibited the dismissal from work both during pregnancy and for the year after the birth. Even though such law still did not refer to domestic workers, it did include those working in the agricultural sector and public sector's employees<sup>195</sup>.

Some years later, there was the adoption of the "*Protection of Working Mothers Law*" (Law n. 1204 of 1971, the revised version of Law n. 860 of 1950), which intended to combine women's family engagements/duties with paid work, according to the constitutional principle of gender equality. In fact, it broadened the sphere of application of maternity leave – extended to two months before the birth and three after - and recognized the right to equal treatment for workers of different sectors, including domestic workers. Even though women's employment had risen until 1962, mainly in low paid jobs, in the following decade women's unemployment started to rise again and they were still widely employed in unofficial occupations. Only later, since 1973, the creation of new jobs led to an increase of women workers by 27 per cent<sup>196</sup>.

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<sup>194</sup> L. Caldwell, *Italian family* (1991), p. 111.

<sup>195</sup> Ivi, pp. 102, 110.

<sup>196</sup> Ivi, pp. 115-116.

The *Equal Treatment Act* (N. 903/1977), adopted in compliance with the Equal Treatment Directive, has been the first law to expressly address the right to equal treatment for both women and men in relation to employment, prohibiting any form of discrimination based on gender. It also introduced the principle of equal pay according to work of equal value and a limited right to parental leave for fathers. However, the adoption of this new discipline was not the result of feminists' mobilization, but it was mainly a response to European directives adopted in this field<sup>197</sup>.

What emerged in that period was the focus on the “woman question”, which, besides the contradictory demands and strategies adopted at different levels, led to an increasing awareness of the complex policies required to cope with such issue. Without any doubt, the law was a starting point, but it was not enough to reduce formal discrimination between women and men and the recognition of equality in front of the law was the minimum condition for the achievement of more equality at a broader level<sup>198</sup>. Following some criticisms related to Act n. 903/77, there was the adoption of Act n. 125 in 1991, which introduced the concept of equal opportunities (“Pari opportunità”) and led to the creation of an *Equal Opportunities Commission and Committee*, set up by the Cabinet and the Ministry of Labour. Act n. 125/91 has been considered more effective in promoting ad hoc positive action concerning gender discrimination in employment in specific parts of the country and specific companies<sup>199</sup>.

The 1960s-70s have been decades of important transformations in the Italian society, especially from the cultural and social point of view, leading to the “gender revolution” which brought about a new consciousness among women. In particular, the law on divorce, adopted in 1970, after some years of struggle and the opposition of many political parties - which considered it as an attempt to go against the Catholic ideals, deeply entrenched in the Italian state-, inevitably modified the traditional view of family and gender roles within it. In fact, the debate raised around the divorce bill was mainly about whether family, originally conceived as a natural association, could work and fulfil its needs and stability (Arts. 29-30-31 Cost.) even without its apparently inseparable components<sup>200</sup>. Overall, the introduction of divorce within the Constitution appeared to demonstrate the supremacy of the Italian state over the Church, redefining the boundaries between the two - especially regarding marriage-, and it was interpreted as a real turning point in the Italian history, modifying the relationship between

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<sup>197</sup> E. Riva, *Familialism reoriented: continuity and change in work-family policy in Italy* (2015), p. 24.

<sup>198</sup> L. Caldwell, *Italian family* (1991), p. 120.

<sup>199</sup> S. Velluti, *Promotion of gender equality at the workplace* (2008), p. 197.

<sup>200</sup> L. Caldwell, *Italian family* (1991), pp. 75-77, 80.

men and women within the family and allowing women to exercise their power in front of marriage<sup>201</sup>. During the same years, the Italian Parliament approved, in 1978 (Law 194), a law legalizing abortion, legitimating women to interrupt pregnancy up to the first ninety days since its beginning, conditional to a series of strict conditions. The law on abortion posed a deep feminist challenge to the dominant and traditional patriarchal culture and redefined the relationship between reproductive rights and the state itself. Despite the several disagreements coming from the Catholics – far deeper than those provided against the law on divorce -, the right to abortion was finally considered in terms of the state's obligation towards the social protection of motherhood, since the first conception of a new human life. Moreover, feminist activism towards this issue demonstrated the possibility of achieving legal change both at level of institutions and in opposition to traditional ideas, even though the resistance towards the legalization of abortion was persistent and profound<sup>202</sup>.

Some decades later, along with the dramatic changes occurred in the Italian politics during the 1990s - characterized by the breakdown of the traditional parties, the judicial inquiries on corruption and the enactment of a quasi-majoritarian electoral system -, other developments in terms of family law took place. In particular, Law 285/1997 - '*Provisions for the promotion of rights and opportunities for childhood and adolescence*' -, was the piece of legislation adopted in relation to young children's education and care, created to support working parents in performing their several responsibilities, but also to promote children's rights and socialization (Art. 1). The legislative framework provided by Law 285/97 was then absorbed by Law n. 328/2000, specifically dealing with parental leave due to childcare and later completed with the adoption of Law n. 53/2000, which applied the EC Parental Leave Directive<sup>203</sup> and extended the protection of maternity to the right for both parents to take the responsibility for childcare. During the same year there was also the adoption of Act n. 61, which introduced the possibility of part-time work and provided parental leave periods up to 10 months - until the child has eight years old - and also the possibility for the father to take the leave autonomously in respect to the mother<sup>204</sup>. However, this act did not produce significant results, leading to the adoption, in 2001, of Legislative Decree n. 151 – commonly known as *Testo unico sulla maternità e paternità* - which introduced a mandatory 20-week period of maternity leave for

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<sup>201</sup> M. Seymour, *Keystone of the patriarchal family? Indissoluble marriage, masculinity and divorce in Liberal Italy*. *Journal of Modern Italian Studies*, 10(3), 297-313 (2005), pp. 297, 299.

<sup>202</sup> M. A. Bracke, *Feminism, the state, and the centrality of reproduction: abortion struggles in 1970s Italy*. *Social History*, 42(4), 524-546 (2017), pp. 524-526, 544-545.

<sup>203</sup> E. Riva, *Familialism reoriented: continuity and change in work-family policy in Italy* (2015), pp. 24-25.

<sup>204</sup> S. Velluti, S. Velluti, *Promotion of gender equality at the workplace* (2008), pp. 198-199.



working mothers, securing their employment and granting them the 80% of the normal wage, paid through the social security fund<sup>205</sup>.

The issue of equal opportunities for men and women has become particularly evident with the drafting of the constitutional laws n. 2/2001 and n. 3/2001, n. 1/2003, which completed the process of achieving substantial equality between sexes begun with the adoption of ordinary legislation. In particular, Law n. 1/2003 integrated the principle of equal opportunities, expressed by Art. 51, Cost., in order to guarantee constitutional coverage to every measure adopted from then on in the context of equal democracy, in particular as regards the designation of political positions. Such constitutional reform has been considered satisfactory, not only because it transforms the concept of political representation, adapting it to the requirements of equal democracy, as it happens in modern societies but it also creates an adequate constitutional coverage for subsequent laws in the same context, in order to recover the existing *deficit* in terms of women's representation,. Finally, it completes the original version of Art. 51, Cost, providing for the related commitment to create the conditions to allow the development of substantial equality<sup>206</sup>.

Despite the different work-family policies adopted since the 1990s, which corresponded to different policy instruments and depended on the political coalition in power, the traditional policies' paradigm still remained strong and a substantial change required a change in the family-oriented model, still largely in place. Moreover, on the one hand, the centre-left coalition governments were largely influenced by the European normative framework, which provided valid guidelines for policies in the direction of new opportunities for women and the achievement of work-family balance. By contrast, centre-right governments were more focused on increasing the participation of women in paid work and committed towards the flexibilization of the labor market, but still focused on the main elements typical of the family-centered view. Overall, such situation demonstrates the need for a systemic change in order to achieve positive and concrete effects in relation to gender equality and women's empowerment<sup>207</sup>.

Some years later, in 2006, there was the introduction of the Code of Equal Opportunities, Legislative Decree n. 198/2006, according to which "*it is defined as direct discrimination any act, covenant or conduct which has an injurious effect by discriminating against workers according to their sex and, in any event, less favorable treatment than that referred to other workers*" (Art. 25, c. 1). In other

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<sup>205</sup> E. Riva, *Familialism reoriented: continuity and change in work-family policy in Italy* (2015), pp. 24-26.

<sup>206</sup> A. Genna (2016), *Alcune considerazioni sul principio di pari opportunità*. Norma quotidiano di informazione giuridica[online], pp. 7, 9-10.

<sup>207</sup> E. Riva, *Familialism reoriented: continuity and change in work-family policy in Italy* (2015), pp. 31, 34, 38.

words, there is *direct* discrimination when equal rules are prescribed or applied to different cases or different rules are prescribed or applied to equal cases, damaging one sex or the other. Whereas, there is *indirect* discrimination where “*a provision, a criterion, a practice, an act, an apparently neutral pact or behavior puts or may put workers of a given sex at a particular disadvantage compared to workers of the other sex, unless they regard requirements essential to the performance of their work, provided that the objective is legitimate and the means used to achieve it are appropriate and necessary*” (Art. 25, c. 2)<sup>208</sup>. Therefore, the protection of equal opportunities for men and women also within the family is one of the core objectives of the “Code of equal opportunities” (L. Decree n. 198/2006). In particular, Art. 23 and 24 deal with the relation between spouses with reference to the provisions of the Civil Code and to Law No. 154/2001, related on violence in family relationships. The latter is part of the wider system of protection of family law, which provides sanctions, both in civil and criminal matters, in the event that the rules governing the birth and exercise of family rights and duties are violated<sup>209</sup>.

Among the measures introduced with the aim to create new jobs and reduce the employment rate, but also to achieve social and economic growth, in 2011 there has been the creation of the *Fund for the Financing of Measures for the Qualitative and Quantitative Increase in Youth and Women’s Employment* with Legislative Decree n. 201/2011 (converted into law n. 214/2011). The fund, which has been established for the specific objective of broadening the employment rate and increase women’s and youngsters’ employment, has actually been operational only for a few months and has not succeed in exerting a significant impact on new recruitments for both young people and women<sup>210</sup>. In 2011, the then Governor of the Italian Central Bank, Mario Draghi, underlined the scarce women’s participation in the labor market as a factor of weakness of the Italian economic system. If well-read, the European economic and financial crisis occurred in those years might have created an opportunity for change. However, the raise of women’s retirement age introduced by the Fornero Law (n. 92/2012), did not actually have a positive impact on women’s employment. Even though an equal retirement age for both women and men could have allowed to overcome some gender stereotypes towards a more equal approach and to obtain a higher pension, there was a structural problem in terms of the contributory system that made it not possible<sup>211</sup>. The Fornero Law also introduced a flexible

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<sup>208</sup> A. Genna, *Alcune considerazioni sul principio di pari opportunità*. Norma quotidiano di informazione giuridica[online] (2016), p. 26.

<sup>209</sup> Ivi, pp. 34-35.

<sup>210</sup> A. Fenoglio, *Conciliazione vita-lavoro e incremento dell’occupazione femminile: una via per uscire dalla crisi* (2014), pp. 6-7.

<sup>211</sup> G. De Simone, *Tra il dire e il fare. Obiettivi e tecniche delle politiche per il lavoro femminile nella riforma Fornero* (2012), p. 594.

clause, which allowed to change the temporal collocation of the work activity and to modify the duration of the working day, and it also provided a horizontal/vertical part-time relation (art. 3)<sup>212</sup>. Moreover, Art. 4 introduced the compulsory parental leave of one day up to a maximum of three and the creation of vouchers for baby-sitting for mothers, in order to sustain parents and to promote a more inclusive culture towards children caring, but also to promote the conciliation of life-work balance and to get over the traditional gender division of roles within the family<sup>213</sup>.

Not particularly bright results have been achieved by other measures planned in recent years to promote employments, such as the commonly known “decree Saves Italy”, which has introduced several tax benefits for female employees having a permanent contract, but the substantial liberalization of fixed-term employment contracts, started with Law n. 92/2012, has excluded the obligation for the employer to justify the reason for hiring a person, in relation to the first fixed-term contract of maximum twelve months and, since the stipulation of atypical contracts typically concerns the younger generation and, in particular, the feminine component of the workforce, the liberalization of fixed-term employment contracts is likely to have a greater impact on women<sup>214</sup>.

After more than ten years from its introduction within the legal framework, the parental leave is still not very used, not only because of the low guaranteed economic coverage (which has a greater impact on male income, normally more elevated), but also for social and cultural stereotypes regarding the repartition of responsibilities at the familiar level. The several contradictions between gender equality, working conditions and social protection determine a discriminatory framework, which impacts, more or less, all the aspects of the working dynamics. According to some studies, the Italian welfare system is not capable to respond to the growing needs for women’s protection and the protective model of the discontinuous workers remains characterized by multiple elements of fragility. At the basis, there is still the need to act at the social and cultural level and to normalize the paternal role within the family<sup>215</sup>.

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<sup>212</sup> M. Cinelli, G. Ferraro e O. Mazzotta, *Il nuovo mercato del lavoro: dalla riforma Fornero alla legge di stabilità 2013* (2013), p. 110.

<sup>213</sup> G. De Simone, *Tra il dire e il fare. Obiettivi e tecniche delle politiche per il lavoro femminile nella riforma Fornero* (2012), pp. 679-681.

<sup>214</sup> A. Fenoglio, *Conciliazione vita-lavoro e incremento dell’occupazione femminile: una via per uscire dalla crisi* (2014), pp. 8-9.

<sup>215</sup> P. Bozzao, *Le questioni di genere nella protezione sociale del lavoro discontinuo* (2010), pp. 408-409.

### 3.3 *The need for the reconciliation of work-life balance*

The problem of equal representation between men and women in elective bodies - both political and administrative ones-, constitutes, together with that of equality within the family and of economic parity, one of the key aspects inextricably interrelated one to the other in the context of gender equality. In this direction, the introduction of *minimum quotas* for women has been considered as favorable to calibrate the reduced availability of time for women, which should take care of family and children duties. In this way, it could be guaranteed their access to public bodies and avoid the violation of the constitutional principle of protection of the family and children (Art. 5, Cost). In particular, the possibility to rationally organize, on the one hand, the rhythms of work and, on the other, the time dedicated to domestic needs, constitutes a specific instance that have always distinguished the position of women in society and, at the same time, integrates an appropriate tool for the partner/other gender to share responsibilities related to family and children, in the context of the principle of equal participation, enumerated in the Constitution<sup>216</sup>.

In today's society, the reconciliation of work-life balance is of fundamental importance for companies to attract new employees and give value to their activity, well aware about the great effects of such practices also on their productivity. The socio-demographic changes occurred in the last decade have evidently changed the world of work and the respective roles of men and women, with an increasing presence of the latter in the workforce and leading to new familiar dynamics. Moreover, the ageing of active population and the introduction of new technologies, more and more at the forefront in every sphere of the society have made crucial such issue, even more for companies than for employees themselves. In the last twenty years, there have been a progressive shift towards an economy model based on flexibility, requiring more adaptability and more solutions aimed at guaranteeing the conciliation between family and work needs<sup>217</sup>.

At this regard, the need to reconcile work and family responsibilities has become an increasingly pressing imperative in the Italian legal system as a result of the growth in female employment, on the one hand, and the persistent lack of adequate services to support their needs, on the other hand<sup>218</sup>. As already said, family represents the natural and primary form of society and the traditional division of roles within the family may often determine the division of duties in the house between men and women, leading to forms of discrimination against women.

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<sup>216</sup> A. Genna, *Alcune considerazioni sul principio di pari opportunità*. Norma quotidiano di informazione giuridica[online] (2016), p. 34.

<sup>217</sup> V. Mancini, *Smart working e gender gap*. Rome Business School Research Center (2020), pp. 10-11

<sup>218</sup> M. Faioli and L. Rebuzzini, *Working Papers della Fondazione Brodolini, Conciliare vita e lavoro: verso un welfare plurale* (2010), p. 49.

Art. 31 of the Italian Constitution makes reference to the reconciliation between life and work, assigning to the Republic the task of facilitating “*with economic and other providential measures the formation of the family and the fulfilment of relative tasks with particular regard to large families*”. In order to achieve a work-life balance, the Italian legislator has used instruments of *positive actions*: government measures aimed at supporting persons with parental or family responsibilities, by removing obstacles to the implementation of the principle of substantive equality and by granting benefits to those who are victims of some forms of discrimination. The instrument used by the Italian Legislator to “reconcile work in life time” appears, therefore, flexible and temporary - because it is destined to run out at the same time as its objective is achieved to remove those specific material obstacles to genuine and substantial equality between workers<sup>219</sup>.

The interweaving of family policies and labour policies, as well as the regulation of employment relations, have been broadly addressed in the Italian legislative context since the very beginning, as we have seen in the previous paragraph. However, even though family and its related gender relationships have been at the basis of social legislation and social security policies, even today family policies are to a large extent a subspecies, or rather a derivative, of labour policies and they have not acquired an independent foundation. There is still an idea of family largely based on the figure of the male *breadwinner* and the man as the only adult working in the house and the recognition of the necessity and existence of the care work, often allocated according to gender<sup>220</sup>. Italy has been defined, by several authors, as a *Mediterranean* model, a distinct welfare regime characterized by highly fragmented social policies and, where the family is explicitly concerned, by a low level of public transfers to families with children, a low level of development of social services, the increasing use of evidence and the long-standing absence of policies to reconcile family responsibilities with paid employment<sup>221</sup>.

Although the principle of equality between men and women is at the heart of an articulated body of legislation, both at the national and at the European level, there are still low levels of women’s employment in Europe and the reason for that could be found out in the lack of policies aimed at reconciling professional and private life, which is essential to support and confirm access to the labor market, especially for women. At this regard, the Italian system is characterized by a strong gender asymmetry in the distribution of care facilities for children and the elderly, on the basis of the

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<sup>219</sup> M. Faioli and L. Rebuzzini, *Working Papers della Fondazione Brodolini, Conciliare vita e lavoro: verso un welfare plurale* (2010), pp. 57-58.

<sup>220</sup> C. Saraceno, *Politiche del lavoro e politiche della famiglia: un'alleanza lunga e problematica. Lavoro e diritto*, 15(1), 37-54 (2001), pp. 37, 42.

<sup>221</sup> C. Saraceno, *Mutamenti della famiglia e politiche sociali in Italia*. Il Mulino (2003), p. 14.

persistence of a social and cultural model of family life organization built on the male breadwinner and the female caregiver. Therefore, women encounter some difficulties in preserving their work and performing, at the same time, their family responsibilities<sup>222</sup>.

In recent years, the economic restructuring due to globalization processes and the feminization of labour have repositioned certain features of working life typically associated with women, such as low employment rates, low pay, flexible working patterns and so on. However, the rationale and focus have remained anchored either to formal equality or to the traditional familial model. Hence, the increased participation of women in the labour market has not led to a decrease of responsibilities in the family, with detrimental consequences for women in the sphere of paid work. Moreover, the annual wage differential between men and women is still very high and it is likely to increase with age, education and qualification level, with a substantial difference in wages for those aged 40 and above, but a downward trend young workers. The reasons cited for the persistent gender pay gap include women taking maternity and childcare leave, working fewer hours, having a different retirement age and having lower individual bargaining power, along with the absence of a gender mainstreaming policy in the workplace. At the end of the working life, these patterns result in a lower seniority level with their current employer<sup>223</sup>.

As emerged during the last meeting of the *World Economic Forum*, held in Davos, in order to fill this gap it will be necessary to focus the attention on three main causes: 1) Women continue to be more employed in "automatizing" jobs; 2) Women still constitute an endemic minority in occupations with the highest wage growth (particularly in innovative sectors with high technological development); 3) In developing countries, women continue to be the hardest hit by the chronic lack of infrastructure and difficulties in accessing capital. Therefore, it could be said that the biggest challenge preventing the elimination of the gender economic gap is the under-representation of women in emerging professions and, to address these deficiencies, governments need to ensure high levels of vocational training for women (especially in terms of better skills and/or retraining) to meet the new challenges of the labour market and take advantage of the opportunities of the "Fourth Industrial Revolution"<sup>224</sup>.

Without doubt, the progressive flexibilization of labour towards "atypical" forms of employment – such as part-time contracts, flexible working hours, and a broader variability of working hours and so on has contributed to facilitate women's access to employment overtime. The liberalization of work has both provided evidence about the great potential of flexibility in the world of work and,

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<sup>222</sup> P. Bozzao, *Le questioni di genere nella protezione sociale del lavoro discontinuo* (2010), p. 401.

<sup>223</sup> S. Velluti, *The promotion of gender equality at the workplace* (2008), p. 197.

<sup>224</sup> V. Mancini, *Smart working e gender gap*. Rome Business School Research Center (2020), p. 21.

secondly, it has underlined the positive changes occurred thanks to those reforms, in favor of women and employment rate<sup>225</sup>. In fact, women are those who need the most flexible contracts which are adaptable to the needs imposed by the societies, in which paternity is not taken into account and where too often motherhood is still seen as a barrier to professional development. Many companies still have difficulty in conceiving the convenience of smart working and, therefore, they are often reluctant to grant flexibility and part-contracts, which is now one of the few possible solutions for families with children in which both parents work. In Italy, the gender pay gap between men and women is around 23, 7%, against the 29.6% at the European level and such situation has an inevitable implication on the economic development of Italy and on its competitiveness in Europe, impacting also the fertility rate<sup>226</sup>.

Law n. 81/2017 on the protection of self-employment has introduced the conditions for flexible working (Art. 18-24), characterized by no precise constraints on working hours or the place of work and the possible use of technological advices to carry out work, with the aim to increase competitiveness and facilitate the achievement of work-life balance. Any tax and contribution incentives recognized in relation to productivity's increases and efficiency of paid work are also applicable to flexible working<sup>227</sup>. However, in the context of the Italian industrial relations system, measures aimed at integrating women into the labour market will be effective only if accompanied by changes of the labour conditions in the workplace - such as reorganizing working life, including working hours, providing adequate care services and education schemes-, combined with policies aimed at reviewing traditional gender contracts and strengthening the equal sharing of work in the private sphere. Collective bargaining may represent a valuable complement to legislation in promoting equality, with the adoption of proactive measures rather than merely measures to counter discrimination<sup>228</sup>. Therefore, the provision of services and fiscal policies favorable for families, but also the development of a shared culture focused on family-friendly conciliation and flexible organizational model would aid the achievement of a work-life balance. However, one of the great limits of the approach adopted in Italy is the fact that good practices are implemented, but they are not able to "make system", to be organized in a homogeneous way and to become operative norm, or payable right<sup>229</sup>.

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<sup>225</sup> M. Acconci, *La presenza femminile nella PA: il contesto italiano, il quadro normativo e la promozione delle pari opportunità* (2004), p. 85.

<sup>226</sup> V. Mancini, *Smart working e gender gap* (2020), Rome Business School Research Center, p. 26.

<sup>227</sup> Legge 22 Maggio 2017, n. 81. Gazzetta ufficiale della Repubblica Italiana, art. 18-24.

<sup>228</sup> S. Velluti, *The promotion of gender equality at the workplace* (2008), pp. 197, 201.

<sup>229</sup> M. Faioli and L. Rebuzzini, *Working papers della Fondazione Brodolini, Conciliare vita e lavoro: verso un welfare plurale* (2010), p. 9

### ***3.4 The progressive development of flexible/smart working in Italy***

The technological progress that has suddenly and recently involved the most advanced societies has widened the ways through which the majority of the modern working activities are carried out. While, on the one hand, there has always been the need to perform work and the related tasks in a specific location and at fixed times, today's technological tools (such as portable devices, Wi-Fi or ultra-broadband) have considerably extended the flexibility options, allowing workers not to be physically present in the places of his organization and to offer his contribution even at other times than usual<sup>230</sup>. An increasing number of firms are rethinking their organizational models, referring to the emerging ones with the term '*Smart Working*', characterized by higher flexibility and autonomy in the choice of working spaces, time and tools, and that provides all employees with the best working conditions to accomplish their tasks. According to a preliminary analysis, three elements should constitute a SW model: the usage of ICT-based solutions, which could allow all employees to interact in real time in a flexible and effective way, sharing more easily files, information and ideas. The second element regards the innovations in the HR practices and in the organizational models, introducing training programmes, new communication plans and new management by objectives processes systems, projects of cultural change and re-organization. Finally, the third element is represented by the reconfiguration of the workplace and of the office layout, increasing employees' productivity and allowing them manage better their work-life balance<sup>231</sup>.

In 2015, Italy was in last place in terms of percentage of workers doing telework, with only 5% workers and 3% of self-employed (Eurofound, 2015, *Percentage of workers doing telework and ICT-based mobile work*) and in 2018, it was estimated that 480,000 Italians (12.6% of those employed) worked in *smart working* (Observatory on Smart Working at the Politecnico di Milano, 2018). The Italian legislative system supports and encourages technological changes in such direction and towards the organisations of work through a legal framework that includes *new* forms of work<sup>232</sup>. Italy has a long standing experience in terms of flexible forms of work that give workers the opportunity to carry out their activities in spaces and times different from the usual ones. The first legislative initiatives introduced at this regard, respectively the D.P.R. n. 70 of March 1999 and the Deliberation of the Authority for the computer science in the Public Administration n. 16 of May 2001, which referred only to the Public Administration. It was only with the Inter-Federal Agreement

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<sup>230</sup> S. Zappalà e F. Toscano, *Smart working in Italia: origini, diffusioni e possibili esiti* (2020), p. 203.

<sup>231</sup> L. Gastaldi, M. Corso, E. Raguseo, P. Neirotti, E. Paolucci & A. Martini, *Smart working: Rethinking work practices to leverage employees' innovation potential*. In *Proceedings of the 15th International CINet Conference* (Vol. 100 (2014), pp. 336-338.

<sup>232</sup> S. Zappalà e F. Toscano, *Smart working in Italia: origini, diffusioni e possibili esiti* (2020), pp. 203-204.



of June 2004 that the private sector was also affected by flexibility measures. On that occasion, some of the major trade unions and Confindustria adopted the 2002 the *European Framework Agreement on Telework*, which mentioned the possibility of concluding agreements aimed at carrying out work activities in locations other than those of the company and with schedules not established in a predetermined manner. After several years, the adoption of Law no. 81/2017 established the right for organizations and workers to implement flexible forms of work, a single legal rule valid for both the public and private sector and which does not impose constraints on spaces and hours (except for maximum ceilings per day/week) and specifies that the aims pursued no longer concern - as was the case for the D.P.R. n. 70/1999 - the need for savings, but the increase in competitiveness and the reconciliation of living and working time. At the end of 2018, the 58% of large companies, the 24% of small and medium enterprises (SMEs) and 9% of Italian Public Administrations were interested in smart working projects and many organizations reported the successes achieved with the adoption of such new mode of work<sup>233</sup>.

The most commonly chosen place to work at distance remains worker's home, but also other types of sites are often used, such as the so-called «*telecentres*», places equipped to allow more workers, even from different companies, to carry out their activities in an alternative to the official workplace, having at disposal tools such as printers, scanners, landlines or video conferencing equipment. An important factor motivating the decision to apply flexible forms of work is the work-family conflict, considering the level of incompatibility – already mentioned above - generated by the difficult reconciliation between the needs of working life and those of family life. Therefore, it is reasonable to think that flexible ways of carrying out their work activities could lead to an improvement in both working and personal life, giving workers greater control over the planning of working hours and being more able to organize their personal and working time. However, some further studies concluded that distance work seems to have a limited effect on reducing conflicts between work and family, due to the fact that the family responsibilities of an *agile worker* may increase as the person spends more time at home and this could be especially true for women because of the expectations and division of tasks within families. Overall, it remains important that those who have a *smart working* contract establish clear boundaries between family and work duties so that any benefits obtained from working flexibility do not give rise to consequences that cancel out their effects<sup>234</sup>.

Despite the enormous potential economic and social benefits deriving from the adoption of a *Smart working* model – in terms of productivity, but also benefits and time-saving - still few companies

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<sup>233</sup> S. Zappalà e F. Toscano, *Smart working in Italia: origini, diffusioni e possibili esiti* (2020), pp. 204, 206-208.

<sup>234</sup> Ivi, pp. 208-210.

willing to rethink their organizational models and to extend flexibility, autonomy and accountability to all workers<sup>235</sup>. Moreover, although the already mentioned Law 81/2017 has introduced several elements of organizational flexibility in the labour market that, taking advantage of the opportunities offered by new technologies, allow to combine the objectives of efficiency and productivity of the company with the well-being of the worker, the number of people involved in flexible working's solutions is still extremely low.

### 3.4.1. Smart working during COVID-19 pandemic

Recently, flexible forms of work have started to be increasingly used in Europe and in the rest of the world. In particular, the COVID-19 pandemic has, without any doubt, strongly reinforced the necessity to adopt flexible working in almost every sector of society, to keep on working when everyone was forced to stay at home. Perhaps, it has been the most powerful and biggest experiment of telework in Italy. Between March and April 2020, about 8.36 million people were part of the telework system, corresponding to 32% of workers, well below the European average of 56%<sup>236</sup>. Specifically, according to data from ISTAT, 90% of big companies and 73.1% of medium enterprises have introduced or extended smart working solutions during the COVID-19 emergency. The most impressive element regards, small enterprises, 37.2% of which have resorted to smart working modalities. Moreover, even after the end of the national lock down period, between May and June 2020, the percentage of workers employed remotely remained significant (around 5.3%), especially in SMEs. These results demonstrate that, thanks to the implementation of adequate IT and organizational solutions, many Italian companies have been able to extend rapidly previously limited used modalities of work (Report ISTAT, 2020).

The regulatory measures adopted to face the COVID-19 emergency have suddenly turned the spotlight on smart working, proposed as a viable and effective solution for the containment of the contagion in workplaces. The already existing discipline of *agile work*, introduced by Art. 18 of L. no. 81/2017 has been derogated “*for the duration of the state of emergency*”, in order to extend as much as possible its adoption and it *«is automatically applicable to every employment relationship [...] even in the absence of the individual agreements provided therein»*. In practice, due to *force majeure*, the flexible mode of work may be imposed at the discretion of the employer. The massive use of *smart working* to face the health emergency could just be an opportunity to take stock of the

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<sup>235</sup> Osservatorio sullo Smart Working del Politecnico di Milano, *Smart Working: sotto la punta dell'iceberg* (2017). Available at: [https://blog.osservatori.net/it\\_it/smart-working-sotto-la-punta-delliceberg](https://blog.osservatori.net/it_it/smart-working-sotto-la-punta-delliceberg)

<sup>236</sup> V. Mancini, *Smart working e gender gap*, Rome Business School Research Center (2020), pp. 12-14.

situation and highlight the critical issues that slow down the "normal" application of smart working in the Public Administration, which, in fact, seems rather reluctant to adapt to new developments in the performance of work. At this regard, the main obstacles could be identified in the technological backlog, insufficient instrumental and economic resources, the increasingly advanced age of personnel and their digital training, sometimes not adequate<sup>237</sup>.

The Decrees of the President of the Council of Ministers (D.P.C.M.) adopted on March 8 and 11, provide that, with reference to productive and professional activities, the maximum use for companies of *agile working* methods for activities that can be carried out at home or in distance mode, for the duration of the state of by employers in any employment relationship and even in absence of the individual agreements – as provided by Art. 18 Law n. 81/2017. Therefore, it has been made a meaningful simplification of the path of activation of the agile modality of work, also through the temporary overcoming of the mechanism of the individual agreement<sup>238</sup>. According to Law n. 81/2017, agile workers are guaranteed equal economic and regulatory treatment compared to their colleagues who perform their working activity in ordinary ways. Therefore, it is provided for their protection in the event of accidents and occupational diseases, in the manner described by INAL (*Istituto Nazionale Assicurazione infortune sul Lavoro*) in Circular no. 48/2017 (lavoro.gov.it, 2020). In Western Europe, it is predicted an average annual increase in “agile workers” by 3.6%, which would carry to approximately 123 million of agile workers in 2022. Specifically, in Italy, approximately 10 million smart workers are expected for 2022 (about 36% of total workers), but the new provisions of the D.P.C.M. adopted in March 2020, signed to regulate the special management of the epidemiological emergency by COVID-19, opened completely new scenarios, probably leading to a substantial and unprecedented increase in *agile* workers in the coming years compared to current estimates<sup>239</sup>.

According to Eurofound, job instability fell by 5% from April to July 2020, but wide concerns remained for workers having fixed and short-term contracts and although it has been registered an increase in working hours, a third of workers who responded to the survey reported less working hours than before the COVID-19 pandemic. In July, the majority of EU employees expressed the will to keep on working from home at least sporadically, reporting a positive experience with teleworking and the preferred option resulted a mix of presence working in the office and teleworking at home<sup>240</sup>.

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<sup>237</sup> M. Russo, *Emergenza Covid-19 – Speciale n. 1*, Giustiziavivile.com (2020), pp. 56-58.

<sup>238</sup> S. Bini, *Emergenza Covid-19 – Speciale n. 1*. Giustiziavivile.com (2020), p. 67.

<sup>239</sup> V. Mancini, *Smart working e gender gap*. Rome Business School Research Center (2020), p. 30.

<sup>240</sup> Eurofound, *Living working and COVID-19 dataset*, Dublin (2020). Available at: <http://eurofound.link/covid19data>.

It is controversial whether teleworking has contributed to blur the line between private life and work duties or, contrarily, it has positively impact such equilibrium, especially in the public sector. In any case, in view of the suspension of childcare services and educational activities in schools during the lock down period, the Decree of the President of the Council of Ministers adopted on March, 17 2020, n. 18 – commonly known as “Decree Cura Italia” -, introduced a specific leave for workers employed in the private sector with minor children, distinct and additional to the ordinary leave, guaranteed by Art. 32 of Legislative Decree no. 151/2001 and Art.8 of Law no. 81/2017. Such specific leave could be used, alternately, from fifteen up to a period of continuous or fractional thirty days in total, with 50% of indemnity. The leave could be used if both parents are engaged in a work activity and have not chosen to receive a bonus for the purchase of baby-sitting services to be used in the same period and its fruition has been extended from May, 3 until the 31<sup>st</sup> of July, 2020. The bonus for baby-sitting services has been introduced for a maximum of 600 euros, to be used by the end of 2020, starting from March, 5. For employees in the health sector, with a budget of approximately 680 million, the bonus increases from 1,000 to 2,000 euros and it can be used over 2 months (mef.gov.it, 2020).

At this regard, it seems useful to recall that the issue of achieving a balance between family life and work, with particular regard to the maternal figure, was recently addressed by the European Union with the Directive n. 1158 approved June 2019. This instrument, in fact, partially rewrites the instruments already present in the Italian legal system dictated by Legislative Decree no. 151/2001 with the aim of strengthening the participation of women in the labour market through the reallocation of family tasks also on the other parent, in order to avoid that the mother’s propensity to take care of family needs – which has become even more pressing in the current emergency context - leads to additional renunciations or significant limitations on the work plan. The equalization of parental figures not only allows a further participation of the working father in family and household duties, but also supports single-parent families in the absence of other support persons. The same scope is pursued by the Legislative Decree no. 18 of the 2020, in which the objectives of the European Directive assume a character of particular urgency and centrality because of the sanitary crisis and which become functional to the sustainability of workers in the absence of educational services and in the care of children<sup>241</sup>.

More recently, with the Decree of the President of the Council of Ministers adopted on January, 14 2021, almost one year after the declaration of the state of emergency in Italy, it was recommended

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<sup>241</sup> M. Vitaletti, *Emergenza Covid-19 – Speciale n. 1*. Giustiziavivile.com (2020), pp. 123-124.

the most extended use of agile working for all the activities that could be performed from home or remotely. Additionally, it should be recalled that with Law n. 176/2020 – which modified the previous Legislative Decree n. 104/2020 – working parents, whose cohabiting children under the age of 16 has been quarantined or whose teaching has been suspended, have been granted the right to work from home (lavoro.gov.it, 2020).

According to a study conducted by Bankitalia, in 2020, about the impact of distance working during the COVID-19 emergency, women have been more involved in smart working modalities (16.9%) in comparison to men (12.8%), with 4 percentage points more than men (Corriere. it, 2021). Overall, Italy is characterized by considerable low levels of women's employed (around 50.1% in 2019) in comparison to men's and other European countries<sup>242</sup> and the situation has been even worsened by the sanitarian crisis. At this regard, the Italian Government has recently presented the National Recovery and Resilience Plan for the expenditure of the 209 billion euros destined for Italy in the framework of the Next Generation EU, and around 4.2 billion euros are supposed to be invested in gender equality issues<sup>243</sup>, to compensate for the negative effects of the crisis, both from the economic and social point of views.

In order to assess the effects of smart working modalities upon women, since the beginning of the COVID-19 pandemic in 2020, I realized a survey (see Appendix) to be submitted only to women living in Italy and aged between 18 and over 65, with the aim to demonstrate empirically to what extent women have been penalized during the pandemic, both in terms of employment and, especially, regarding the necessity to perform housework activities and to take care of their children during the closure of schools. In particular, the survey is comprehensive of different categories of jobs, from open-ended or fixed-term contracts, to unemployed or wives, in order to provide a complete framework about the current situation in Italy.

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<sup>242</sup> *Recovery Fund, la bozza del Piano nazionale di ripresa e resilienza (Pnrr)*. Available at: Corriere.it (2020).

<sup>243</sup> G. M. Ferraresi, *Next Generation EU: parliamo di parità di genere*. Available at: Geopolitica.info (2021).

## Chapter 4

### *A comparative analysis: the United States and the Nordic gender equality model*

#### *4.1. The main differences between liberal, family-oriented and social-democratic models of welfare*

The relationship between social policies and demographic and reproductive behaviors has been broadly addressed in the last three decades, considering the extensive ageing of the population in Europe, which has raised some concerns about the efficacy of European public social policies in comparison to other countries, such as the *win-win* example of Scandinavian countries. In fact, these welfare states have appeared more able to respond to demographic changes and women's demands, with the introduction of policies promoting gender equality and supporting employment and fertility. In particular, the substantial reduction of fertility, the emergence of a plurality of family-models and the already mentioned increasing elderly population, have led contemporary societies to redefine the dynamics of convergence of family-work systems<sup>244</sup>. Several research, not only those conducted in the context of gender equality, have defined the current situation as an "*unfinished revolution*", considering that the increasing participation of women in the labor market has not corresponded to consequent changes in family roles (Esping-Andersen, 2009).

In order to assess how different advanced capitalist societies have reacted to the increasing involvement of women in education and employment and the way in which countries bear the cost of children, some scholars have identified different *welfare* models, considering not only the characteristics and dynamics of different family-work systems, but also the impact of cultural and economic factors. For instance, the United States - which represent an example of *liberal* welfare model -, are characterized by high participation of women in the labor force and high fertility rates, while Italy - which has often been defined as a *familist* model of welfare state, that is, for the limited development of policies in support of the family -, provides low birth rates and low participation of women in employment. However, in both countries, the responsibility of care and education is often considered as a private matter, to be assumed primarily by parents. As a consequence, if (educated) women enter the labour market, but do not feel supported by husbands-fathers in housework duties nor by family-work reconciliation policies or childcare services, they could respond to this change by either reducing the number of children, or not making any, or to remain outside the labor market<sup>245</sup>. A third model of welfare – defined as *social democratic* - is represented by Nordic countries, which

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<sup>244</sup> M. Migliavacca and M. Naldini, *Famiglia e Lavoro in Australia, Stati Uniti, Italia e Giappone: sistemi di welfare e di genere a confronto*, pp. 1-2.

<sup>245</sup> *Ibidem*.

pursue the principles of universalism of social rights and the de-commodification of labour, providing particularly generous subsidies to families and promoting gender equality. In addition, this type of welfare state is based on the reduction of the market dependence at the minimum level and it has progressively incentivized women's participation in the labor market, creating new jobs in the public sector, but, at the same time, protecting the possibility for women to maintain their job in case of maternity, through the provision of public childcare services and permissive legislation on absenteeism. The American sociologist Wolfe (1989) has defined the Scandinavian model as a *public family model*, where both parents work and children are cared for by public centers. The social and employment policy of the Scandinavian countries has always been considered productive, that is, driven by the aspiration to maximize the productive capacities of the citizens<sup>246</sup>.

Since the 1990s, several Western countries have progressively expanded family policies, with more and more investments directed towards family-work reconciliation. Almost everywhere there has been the expansion of the childcare sector, the extension of maternity leave, and, above all, the introduction of paternity leave options, but also the adoption of new policies for flexible working hours and so on. However, in Italy the *family-friendly* dimension of welfare, based on the historical preference given to the male *breadwinner*, has not led to the adoption of policies in support to female employment, but rather to high level of expenditure in pensions and care, and the consequent primary role played by the family in terms of welfare<sup>247</sup>. As many analysts point out, the increase in the elderly population and the consequent reduction in the workforce, risks leading the system of social assistance and protection to a dangerous condition of criticality, especially in the so-called *familist* countries. For instance, Italy, in comparison to the United States, shows a much more unbalanced demographic structure towards the elderly population,<sup>248</sup> linking public intervention to the past work experience of individuals, with the aim of guaranteeing the conservation of the *status* previously acquired. By contrast, the *liberal* welfare states, such as the United States, are characterized by residual forms of social protection: access to social services is limited to proven situations of necessity and social guarantees are generally limited to individuals at high risk. However, by posing emphasis on the market as the main instrument for regulating the exchange of work and the acquisition of benefits, the *liberal* welfare state, on the one hand, does not protect the continuity of work for women

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<sup>246</sup> A. Parma, *Donne tra lavoro e maternità: chi rimane occupata* (2012), p. 83-84.

<sup>247</sup> M. Migliavacca and M. Naldini, *Famiglia e Lavoro in Australia, Stati Uniti, Italia e Giappone: sistemi di welfare e di genere a confronto*, pp. 7-9.

<sup>248</sup> Ivi, pp. 5-6.

with children and care responsibilities, and, on the other hand, does not hinder their return to the labour market, once the period of need has ended<sup>249</sup>.

Migliavacca and Naldini have distinguished the policies adopted since the 1990s in the context of the work-life balance in three main categories: a) income support policies through monetary transfers for families with children; b) policies granting support in terms of time, through the introduction of parental leave or hourly flexibility on jobs; c) policies promoting support for care through extra-family services. For instance, Scandinavian countries usually prefer the provision of monetary transfers and services to families with children, with a good level of correlation between public spending and GDP, also in terms of childcare spending<sup>250</sup>. It is a consolidated result of research that parents could better reconcile work with private life if conciliation policies are not designed only for women (working mothers) but also for men (fathers workers), explicitly encouraging men to share family responsibilities and thus promoting a "*dual earner-dual carer*" family model (Gornick and Meyers 2009). At this regard, the distinction between *liberal* countries and *familist*-based models appears clear: by 2013, among OECD members, the United States was the only country lacking some form of guarantee in terms of paid parental leave, only providing, with the federal *Family Medical Leave Act* (FMLA, 1993) at least twelve weeks of unpaid leave to workers, depending on some specific criteria<sup>251</sup>. By contrast, Italy is the country in which maternity leave is provided for a relatively longer period, in terms of duration, and even better paid than in other countries<sup>252</sup>, but the conciliation between private life and work is still critical, due to the lack of adequate services for childcare, insufficient investments in policies towards the achievement of a balance and still strict organizational employment structures (Rapporto annuale 2020, ISTAT). In general, unpaid leave does not seem to provide the same advantages as paid leave, with the result that in the United States and other OECD countries unpaid leave has actually little or even negative effects on women's participation in the labor market and wages. Moreover, increases in paid leave are often associated with more expanded child health systems and perhaps policies guaranteeing paid periods of leave to both parents seem to have a positive impact on father's decision to bear childcare<sup>253</sup>.

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<sup>249</sup> A. Parma, *Donne tra lavoro e maternità: chi rimane occupata* (2012), p. 82, 85.

<sup>250</sup> Ivi, pp. 117-119.

<sup>251</sup> A. Nandi, D. Jahagirdar et al., *The impact of parental and medical leave policies on socioeconomic and health outcomes in OECD countries: a systematic review of the empirical literature*. *The Milbank Quarterly*, 96(3), 434-471 (2018), pp. 435, 441.

<sup>252</sup> M. Migliavacca and M. Naldini, *Famiglia e Lavoro in Australia, Stati Uniti, Italia e Giappone: sistemi di welfare e di genere a confronto*, pp. 13-14.

<sup>253</sup> A. Nandi, D. Jahagirdar et al., *The impact of parental and medical leave policies on socioeconomic and health outcomes in OECD countries: a systematic review of the empirical literature*. *The Milbank Quarterly*, 96(3), 434-471 (2018), pp. 460-461.



Considering the already mentioned association between fertility and female participation in the workforce, the highest negative correlation between the two variables is found in the Mediterranean countries, among which Italy, while the lowest in Scandinavian countries. This would seem to support the hypothesis that in the Scandinavian countries women are better able to reconcile work and family. While initially the growth of female employment has corresponded to a period of decline in fertility levels, the active presence of women in the labour market has continued to grow even when fertility levels stabilized, suggesting that more and more women were trying to remain the labour market even in the presence of children. However, the effects of unemployment on fertility rates can be devastating, especially when the participation of women in the labour market is low (as in the case of Italy), and this could partly explain the sharp drop in fertility rates. In addition, beyond certain wage levels, further increases in income have demonstrated to affect positively the demand for children – especially in Scandinavian countries - resulting in institutional changes, such as the adoption of social standards concerning women’s work and the development of family policies, which have reduced the incompatibility between childcare and participation in the labour market. Despite the fact that women in all countries experience difficulties in balancing paid work and family responsibilities, in this way it has become increasingly easier to coordinate the two types of responsibility, in some countries better than in others<sup>254</sup>.

It is also important to highlight that individual choices often depend upon the context in which one lives and, above all, culture plays a fundamental role in terms of behavior and women’s choices, influencing the way the different models of welfare states develop the respective social policies. For instance, the strong influence of the Church in *familist* countries have determined, as a consequence, the way family and gender roles within it are considered, as well as women’s role in society and in the workplace. Therefore, women’s choices regarding fertility and labour market participation are also influenced by the level of adherence to traditional values and strong family values encourage mothers to choose full-time child care and to leave the labour market to take care of family tasks<sup>255</sup>. For instance Muszynska (2004) has analysed the situation in Norway and Italy using the variables “marital status” and “religiosity” in order to detect the choices of mothers towards employment. The results provided by Muszynska (2004) demonstrate that religion is likely to affect mother’s decision whether to work or not, both in terms of part-time and full time jobs and normally less religious mothers are more willing to enter the labor market. Moreover, not married mothers tend to re-enter

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<sup>254</sup> A. Parma (2012), *Donne tra lavoro e maternità: chi rimane occupata*, pp. 16-22.

<sup>255</sup> Ivi, pp. 23, 78, 100-101.

the labor market after childbirth more likely than married women, demonstrating the still strong impact of traditional cultural values on work and on women's choices.<sup>256</sup>

## **4.2. The US and the “gendered” character of the distribution of powers**

### **4.2.1. The pros and cons of a federal system of government**

The federalist form of government has been considered to have a great impact upon women's lives and some scholars have defined its *architecture* as gendered-based. According to a federal constitution, public power is divided vertically between a national central government and the territorial entities that are part of the nation, each of them with its own institutions and functions, being both independent and interconnected. Some federal constitutions, such as that of the United States, give specific powers to the federal government and leave residual, unlisted powers to the states, while others, such as that of Canada, assign exclusive powers to both levels and leave the remaining ones to the federal government. Moreover, the federal government has commonly the power to make grants - which may be conditional or unconditional - to member states, on the basis of the principle of *equalization*, with the aim of granting approximate equality in the enjoyment of services and conditions by the citizens of every state. In countries such as the United States and Australia, conditional grants have broadened overtime, becoming a major instrument of *nationalization* of federal policies and regulation in subjects outside explicit constitutional powers. In Analyzing the US Constitution, what is comes to the attention is that both federal and national powers – such as trade, bellicose and territory-defining powers, defense, immigration and external affairs - tend to be often associated with men, while the spheres of health, education and family matters are more commonly attributed to women and less represented within the constitutional class of *national* subjects. According to some scholars, this differentiation has been done either to pose women outside the constitutional sphere or to limit their interests to the local context. However, not all federal powers are considered to be gendered because of this extended practice and many subjects at the constitutional level appear to be gender-neutral<sup>257</sup>.

The case *United States v. Morrison*, concerning the validity of a section of the 1994 federal Violence against Women Act (VAWA), has been considered a valid example within the analysis of the gendered-based distribution of powers in a federal government. The specific section in question aims to provide victims of violence the opportunity to initiate proceedings against the abuser, when the

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<sup>256</sup> A. Parma (2012), *Donne tra lavoro e maternità: chi rimane occupata*, p. 104.

<sup>257</sup> H. Irving, *Gender and the Constitution. Equity and agency in comparative constitutional design*. Cambridge University Press (2008), pp. 65-70.

state's criminal procedures or civil actions have failed or are unavailable, but also to provide for educational programs for women victims of violence. Although the federal government considered violence against women as a national matter, state laws were not adequate to protect women and a federal measure was needed at this regard. By contrast, the US Supreme Court considered section 13981 of VAWA beyond federal legislative power and consequently constitutionally invalid. However, according to judicial interpretation, the case *United States v. Morrison* has not been considered as an expression of the lack of will, on the side of the US Congress, to regulate gender-motivated violence against women as a national matter, but it has rather illustrated a particular interpretation in terms of powers attributed to the US Congress by the Constitution. In this way, some subjects are considered as inevitable matters of federal regulation, while others are left to the states' responsibility, and normally what is defined as *national* tend to exclude the feminine spheres of family, education, welfare and so on. Later on, with the extension of political rights to previously excluded groups and the increasing power referred to the government, women have progressively acquired recognition, both at the political level and in the civil society. However, the already mentioned decentralization of powers, assigned to the federal government by the constitution in terms of making grants and control over specific matter, could often determine the underrepresentation of women and an unequal distribution of wealth around the nation<sup>258</sup>.

It is important and interesting to understand the way the Court's interpretation of the US Constitution has affected women's protection as well as family law. The Court has actually given only partial protection to women against the several forms of pressure and discrimination in which they are commonly involved, but it has eliminated, at least partially, many regulatory constraints. In addition, the Court has imposed some restrictions on the Congress' power to adopt civil rights laws, especially in subjects regarding family relations, not only with the aim to impose constitutional limits on the federal government's power and to secure federalism values, but also to safeguard the prerogative of the Court to interpret the Constitution and, thus, to preserve the separation of powers, as it happened in the case *United States v. Morrison*, emphasizing the limits of the Congress to rule over private actors. More encouraging was the Court's pronouncement in *Nevada Department of Human Resources v. Hibbs*, assuming that the Congress was empowered to adopt a statute with the aim to mitigate work/family conflicts in order to implement the Equal Protection Clause provided by the Fourteenth Amendment. The *Hibbs* case actually demonstrates how the Congress might exercise its legislative powers in order to expand significantly legally binding constitutional rights and obligations, only if

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<sup>258</sup> H. Irving, *Gender and the Constitution. Equity and agency in comparative constitutional design*. Cambridge University Press (2008), pp. 70-74, 76-78. 80.

the Court does not restrict its action on the basis of the separation-of-powers or federalist justifications. However, because the constitutional provision prohibiting sex discrimination was actually derived from that related to race discrimination, the equality doctrine does not acknowledge family as an entity of special normative concern for women. It remains open the question whether and how the Court will authorize the Congress to regulate in this field. The development of sex equality legislation in the United States seems to rely upon it<sup>259</sup>.

Federalism has recently been defined as a valid strategy to deal with fragmentation, characterizing regionally divided ethnic and linguistic communities, too small or incapable of creating separate nations. This was actually the original reason behind the transformation of the American colonies into a federal state, bringing together separate political and ethnic communities under a common national government, while granting the protection of minorities as well as equal representation within the national government. However, even though women are not considered as a minority, they are often underrepresented at the national level and are considered to be more confident in taking part at local opportunities and forums, rather than at national ones. In general, several studies tend to highlight that the subnational representation of women is not increased by the federal decentralization of powers – which may depend upon the subject under consideration - but rather it is determined by the electoral regime and the country's level of economic growth. Without any doubt, the centralization of power provides some advantages considering the allocation of specific services, often better funded and based on the principle of equalization, but centralized authorities may not have the capacity or the adequate knowledge to respond to the needs of local communities or regional differences. From the point of view of women, although centralization may be favorable in terms of equitable access to services or social programs, it could also force some resistant states to comply with specific federal policies without having at disposal the necessary financial resources<sup>260</sup>.

Jill Vickers, one of the major scholars in the analysis of the relationship between gender equality and federalism, has noted that the effects of federalism on gender and women's substantive participation and representation are not clear. In fact, while some studies consider federalism as favorable to women's inclusion and representation at the institutional level - by offering several points of access to women for influencing decision-making processes - some others adopt an inverse view, assuming that federalism often provide a division between issues assigned to women – often at a subnational level - and other excluded from them and regulated at the national level. Even though it is difficult to

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<sup>259</sup> R. Rubio- Marin and B. Baines, *The Gender of Constitutional Jurisprudence*, Cambridge University Press (2004), pp. 328-331.

<sup>260</sup> H. Irving, *Gender and the Constitution. Equity and agency in comparative constitutional design*. Cambridge University Press (2008), pp. 80-86.

assume whether federalism may strengthen or undermine women's representation in national parliaments, the presence of bicameral parliaments and regional chambers in all federal states may provide women more opportunities for access. However, according to the data of *Inter Parliamentary Union* rankings of national parliaments in proportion to women members, on average only the 24.5% of both houses was represented by women by October 2020, with the United States at the 87th place (*Monthly ranking of women in national parliaments, Parline: the IPU's Open Data Platform*). Overall, the analysis conducted by Vickers demonstrate that women's representation in federal countries is slightly higher than in unitary ones, even though political representation is not the only variable to take into consideration when analyzing the convergence between federalism and gender equality<sup>261</sup>.

Some scholars have questioned whether federalism, as a constitutional guarantee, and gender equality, seen as the goal to pursue and to guarantee to citizens, could find some form of agreement. Rather than considering federalism as a collection of normative principles – according to which some subjects of common interests are usually regulated and funded by the national government, whereas regional or more specific matters are administered at the local or regional level by the states - it should be imagined in a contextual way, as a scheme that admits either the devolution or centralization of powers according to the choice which best serves the specific interests and needs involved. However, if a specific subject matter is considered as beyond the capability of one or more member states, the absence of constitutional provisions in favor of the federal power would allow states to intervene, but the federal government could not coerce their action. The notion of *contextual federalism* is not completely feminist, but it is especially coherent with the understanding of the relationship between gender equality and federalist governments, which combine national issues - requiring national policies - with specific and local experiences<sup>262</sup>.

#### ***4.2.2. The US legal context and maternity policies***

The modern form of written constitution was first conceived in the United States, in the post-revolutionary period. Women were not included in the Philadelphia Convention of 1787 and, consequently, they were nor eligible to vote or to be elected to hold political mandate. However, this is not surprising, since at that time nowhere in the world women were politically empowered. Before the ratification of the US Constitution, some observations on the side of women started to rise against

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<sup>261</sup> D. Stockemer & M. Tremblay, *Federalism and Women's Representation: Do federations have more women legislators than centralized states?* *Publius: The Journal of Federalism*, 45(4), 605-625 (2015), pp. 607-608, 613-615.

<sup>262</sup> H. Irving, *Gender and the Constitution. Equity and agency in comparative constitutional design*. Cambridge University Press (2008), pp. 87-89.

the chosen federal form of government, considered as too centralized and lacking a Bill of Rights. However, at the end of the eighteenth century, principles of equality and political representation were still new also for men, giving some inspiration to women's complaints about the guarantee of an equitable distribution of rights in the political sphere. In the nineteenth-century, women started to draw some similarities between the submission of the Americans under the British rule and/or the condition of the slaves and their own subordination according to the US federal government. A feminist analysis of the U.S. Constitution during the early arise of modern constitutionalism has put in evidence that constitutions are often not gender neutral and that women's needs and interests may have some form of constitutional expression<sup>263</sup>. However, the case of the United States demonstrates the potential of gender as a powerful instrument for the progressive empowerment and development of constitutions, despite their original entrenched gender-based structure<sup>264</sup>.

With the adoption of the Fourteenth Amendment in 1868, it was introduced the right for all individuals born or naturalized in the United States to be considered equal under both the US jurisdiction and that of the State in which they reside (Section 1). Moreover, Section 2 recognized to the citizens of every American state the right to have access to all privileges and immunities as citizens of the United States and, consequently, prohibited states to enforce any law which could reduce these privileges or immunities. Even though the amendment's original purpose was to guarantee the recognition of the legal citizenship to emancipated slaves, it actually broadened its scope, extending it to women, which were unequivocally acknowledged as legal citizens. The framework was completed in 1870, with the ratification of the Fifteenth Amendment, which prohibited to every American state to deny to its citizens the right to vote according to "race, color or previous conditions of servitude"<sup>265</sup>. However, the Court refused any constitutional claim advanced by women suffragists after the enactment of the Fourteenth Amendment, stating that it actually did not protect women's rights to vote upon the same conditions granted to men. The franchise was not reached until 1920, with the adoption of the Nineteenth Amendment, which established that *the right of citizens to vote shall not be abridged by the United States or by any State on account of sex* (Irving, 2008)<sup>266</sup>. Some years later, the National Woman's Party proposed another constitutional amendment in order to guarantee women all legal rights beyond the suffrage - including those in the social, economic and political sphere -, to circumvent any common-law precedent which considered them

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<sup>263</sup> H. Irving, *Gender and the Constitution. Equity and agency in comparative constitutional design*. Cambridge University Press (2008), pp. 5-7.

<sup>264</sup> Ivi, p. 13.

<sup>265</sup> Ivi, pp. 9, 11-13.

<sup>266</sup> R. Rubio- Marin and B. Baines, *The Gender of Constitutional Jurisprudence*, Cambridge University Press (2004), p. 306, 308-309.

as dependent on men and to eliminate any form of sex-based discrimination. The *Equal Rights Amendment* (ERA) was introduced in 1923, but the two-thirds majority required in the Congress was achieved only in 1972 and the act has been finally ratified by three-fourths of the American states in January 2020, overcoming the original ratification deadlines imposed by the Congress, respectively 1979 and then 1982. One of the main issues articulated by suffragists before the introduction of the ERA was the protection of pregnancy, considering the high rates of maternal and infant mortality at that time and the fact that pregnant women did not receive any support or assistance. The adoption of the *Sheppard-Towner Maternity and Infancy Protection Act* represented an initial stage towards legislative changes against women's subordination in society. The act provided federal subsidies to states willing to establish maternal and child health centers – with the purpose to educate women about childcare and pregnancy- , and required them to act enabling adequate legislation, being responsible for the management of the program<sup>267</sup>.

The presentation of the first draft of the ERA between 1920 and 1923 opened a widespread legal debate regarding women's position in society and the existence of legal barriers to potential reforms. In particular, while, on the one hand, supporters of *formalism* considered laws as internally rational, to be considered separate from politics, on the other hand, according to *instrumentalism*, laws should directly respond to individual's social needs. The debate over the ERA, which experienced thirty-five drafts, overlapped with proposals of reforms aimed at improving women's working conditions - in terms of hours and wages -, and regarding the judicial interpretation of the Fourteenth Amendment (Zimmerman, 1991). The first judicial case related to women's right to minimum wages was the case *Adkins v. Children's Hospital*, in which the US -Supreme Court invalidated a law of the District of Columbia requiring minimum salaries for women, stating that it violated the Fifth Amendment and women's equal condition to men, recently recognized by the newly adopted Nineteenth Amendment. Moreover, the Court affirmed that women did not constitute a special and separate working category and, thus, they did not require any special employment protection. However, in the previous Muller case, in 1908, the Court had emphasized both the vulnerability of women, not only physically but also due to maternity, and the need to protect them as mothers in order to "secure a real equality of right." Actually, the minimum wage guarantee was a way to recognize women's economic rights and to give value to their work<sup>268</sup> and the case *Adkins v. Children's Hospital* demonstrated that *formalism* was not a legal barrier, but rather an opportunity to achieve the desired reforms. Moreover, the

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<sup>267</sup> J. C. Suk, *Working Mothers and the Postponement of Women's Rights from the Nineteenth Amendment to the Equal Rights Amendment*. Forthcoming, *University of Colorado Law Review*, 92(3), (2021), pp. 1-5, 8, 10.

<sup>268</sup> J. C. Suk, *Working Mothers and the Postponement of Women's Rights from the Nineteenth Amendment to the Equal Rights Amendment*. Forthcoming, *University of Colorado Law Review*, 92(3), (2021), pp. 13, 15, 17, 21.

correlation between the case *Adkins* and the development of the ERA - clearly understood as interrelated with the discussion over equality- demonstrates how explicit reforms could overlap with legal doctrines<sup>269</sup>.

Women's demands did not meet substantial results until the 1960s, when the Congress started to adopt legislation prohibiting any form of race discrimination in several spheres of society, including the employment sector. At the same time, it was found the *National Organization of Women (NOW)*, in order to press the federal government to enforce the law against gender discrimination in the workplace - part of the Civil Rights Act adopted in 1964 -, and to seek constitutional equality's guarantees through the adoption of the ERA<sup>270</sup>. Women's movement for constitutional transformations actually had major effect in the following decade. In fact, in 1971, in the case *Reed v. Reed*, the Supreme Court relied for the first time on the *Equal Protection Clause*, established by the Fourteenth Amendment, to invalidate a state's statute discriminating women on the basis of sex, and it recognized the constitutional guarantee of equal citizenship in favor of women. Gender discrimination was actually considered associated with race discrimination and requiring similar judicial responses. Therefore, the Court has progressively changed its interpretation of the *Equal Protection Clause* towards the recognition of women's right against sex discrimination, even though in principle that clause was intended by the Court to protect individuals against state action, without any differentiation in terms of sex or other indicators. Overall, even though the only constitutional provision expressly prohibiting gender discrimination in the United States is the Nineteenth Amendment – generally related only to the right to vote -, the constitutional movements that emerged between the 1960s and the 1970s had the potential to influence the Court's interpretation of the *Equal Protection Clause*<sup>271</sup>.

In the same period, the Congress adopted, in 1971, the *Comprehensive Child Development Act* - voted some months before the enactment of the ERA -, a nationally funded program to be administered at the local level, and meanwhile, President Nixon approved the childcare bill, both of them driven by the intent of diminishing the involvement of families in children's nurture. Overtime, many judicial cases have demonstrated that federal laws requiring gender equality, such as the ERA, may be more likely to emerge if compensated by states' legislative intervention, as illustrated by the case *Marchioro v. Chaney*. However, it would be necessary to rethink gender equality policies in the

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<sup>269</sup>J. G. Zimmerman, *The Jurisprudence of Equality: The Women's Minimum Wage, the First Equal Rights Amendment, and Adkins v. Children's Hospital, 1905–1923*. *Journal of American History*, 78(1), 188-225 (1991), pp. 188-190, 193.

<sup>270</sup>R. Rubio- Marin and B. Baines, *The Gender of Constitutional Jurisprudence*, Cambridge University Press (2004), pp. 306, 308-309.

<sup>271</sup>*Ibidem*.



context of social reproductive rights – which involves pregnancy provisions, parental leave, workplace flexibility and gender quotas - rather than as a mere anti-discrimination laws<sup>272</sup>.

The main favorable family-friendly legislation adopted in the US is the *Family and Medical Leave Act* (FMLA), adopted in 1993, which introduced the right to twelve weeks of unpaid leave for employees in case of illness, childcare or other family-care necessities. The act is considered to be the principal source of leave in favor of workers, granting both mothers and fathers an adequate infrastructure to support their equal political and economic involvement society. However, the FMLA excludes half of US categories of employees, referring only to those working in companies with less than 50 employees; workers being in a company from less than one year or that have worked less than 1,200 hours in the previous year<sup>273</sup>. In general, the United States refuse the assumption that every woman should have access to paid maternity leave, due to the paternalistic structure of the society, based on gender stereotypes rather than on the respect of women's choices in terms of childbirth. In fact, the FMLA actually does not separate paternity and maternity leave provisions, providing the same period of unpaid leave for both parents, not distinguishing the conditions of pregnancy from medical and illness reasons. As a result, the act has been considered too limited and unsuccessful to solve the work-family conflicts, with the result that few families are able and willing to leave their job during the first months of new child's life without being paid<sup>274</sup>. However, despite the critical issues found in the FMLA, it has been considered effective in overcoming the Court's previous interpretation of the *Equal Protection Clause*, included in the Fourteenth Amendment. Conversely, the Court has defined the act as an attempt to find remedy to the past constitutional violations and to condemn the previously adopted stereotype about women's responsibility - only referred to children and family care-, thus reducing discriminations to employers' decisions in terms of benefits and hiring towards women<sup>275</sup>.

Considering the limited coverage of the FMLA, it is important to analyse other mechanisms put in place since the 1940s in the context of work-family conflicts' regulation and the protection of pregnancy. In particular, in that period there was the introduction of temporary disability insurances - such as Title VII –, preceding the introduction of paid maternity leave and anti-discrimination

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<sup>272</sup> J. C. Suk, *An Equal Rights Amendment for the twenty-first century: Bringing global constitutionalism home*. *Yale JL & Feminism*, 28, 381 (2016), pp. 432-435, 439.

<sup>273</sup> H. Irving, *Gender and the Constitution. Equity and agency in comparative constitutional design*. Cambridge University Press (2008), pp. 176-177.

<sup>274</sup> J. C. Suk, *Are Gender Stereotypes Bad for Women-Rethinking Antidiscrimination Law and Work-Family Conflict*. *Colum. L. Rev.*, 110, 1 (2010), pp. 4, 7-9.

<sup>275</sup> R. Rubio-Marin and B. Baines, *The Gender of Constitutional Jurisprudence*, Cambridge University Press, p. 306 (2004), 310-311.

policies and perhaps leading to some controversial cases. For instance, in the case *Geduldig v. Aiello* (1974), the Supreme Court, after the claim of some pregnant employees regarding the violation of the Equal Protection Clause by the California's disability coverage system - which excluded pregnancy from the scheme of protection -, affirmed that state interventions which regulate pregnancy should not be conceived as sex-based nor examined in conformity with the Equal Protection Clause. The Court's reasoning was based on the assumption that *pregnant* women represent the opposite of *non-pregnant persons*, a category which includes both women and men. However, the US Congress has later refused, in the federal statute regarding gender discrimination in employment, the Court's interpretation of pregnancy outside the constitutional framework, by considering it as a potential work impediment and assuming that distinctions according to pregnancy are actually interrelated with sex. Therefore, such assumption requires employers to treat pregnant employees in the same way, not more nor less, as they treat workers with disabilities and they cannot discriminate them with an adverse treatment nor exclude them from jobs involving nor hire them. Nevertheless, the Court has maintained its opinion regarding pregnancy and has declared that women are protected by the state in a legal framework that actually does not oblige their action towards pregnant women<sup>276</sup>. Some years later, in 1978, with the adoption of the federal Pregnancy Discrimination Act (PDA), Title VII was amended in order to prohibit any form of discrimination, based both on sex and pregnancy, with the result that any omission of pregnancy in sickness or disability laws constituted a violation of Title VII. With the introduction of the PDA and anti-discrimination legislation, around half of women working in large companies could receive some wage subsidies during the period of maternity leave according to the employer's provisional insurance scheme, protecting women as mothers<sup>277</sup>.

The United States is actually one of the few high-income countries not offering paid family leave to working individuals, and the exclusion of some categories of employees from the act contributes to widen existing gender gaps. When analyzing the FMLA, it is important to notice that the federal policy sets out the general framework, providing states and local institutions with significant discretion for the adoption of policies concerning paid maternity leave<sup>278</sup>. According to a research conducted by Clark and Gallagher (2017), the decision of single states to extend the period of leave beyond the standard of twelve weeks provided by the FMLA, is often associated with women's choice to abandon their job more likely than those living in states in line with the original FMLA framework,

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<sup>276</sup> Ivi, 306, 319-320.

<sup>277</sup> J. C. Suk, *Are Gender Stereotypes Bad for Women-Rethinking Antidiscrimination Law and Work-Family Conflict*. *Colum. L. Rev.*, 110, 1 (2010), pp. 9-11.

<sup>278</sup> C. Schulze, *Institutionalized masculinity in US police departments: How maternity leave policies (or lack thereof) affect women in policing*. *Criminal Justice Studies*, 23(2), 177-193 (2010), pp. 180-181.

especially in the case of lower levels of income<sup>279</sup>. Therefore, the presence or not of strict requirements to access paid leave provided by some states, beyond the national standards, are likely to influence women's decision to remain in the workforce after child-birth.

In 2008, the US Department of Labor (DOL), adopted some regulations related to the management of the FMLA and its effective use. It appeared that the act mainly functioned as a medical leave policy, rather than as a basis for family and pregnancy leave, which is surprising, considering the initial aim of legislators to focus on gender equality and to achieve a work-family equilibrium. Perhaps, the merger of family and medical leave provisions into one common act has been considered controversial and not successful in guaranteeing women adequate protection and subsidies in view of having children and, at the same time, maintaining their job<sup>280</sup>. Generally, US maternity leave policies are actually considered not enough to guarantee incentives to working mothers and despite the increasing participation of women in the workforce – about 47% of the total US labor force (Women in the US Workforce, catalyst.org) -, they remain considerably engaged in household duties. At this regard, some existing research has provided evidence about the slow and insufficient action of unions to accomplish significant changes in favor of women's demands, despite their collective bargaining power<sup>281</sup>. In particular, it has been noted a negative relationship between union's intervention and flexible and part-time work practices in employment, but a positive correlation in terms of leave benefits. Overall, despite the potential role of unions in supporting greater working flexibility, these practices are often left to specific companies' choices, and individual's perceptions of union's supportive behavior - either towards workers' scheduling needs or wages and benefits - are likely to affect their access to flexible modalities of work<sup>282</sup>.

In more recent years – and especially during the during the 2017 Women's March on Washington - it has emerged a renewed impulse for the constitutionalization of the *Equality Rights Amendment*, due to women's persistent economic disadvantages, the lack of adequate aid policies related to pregnancy and working mothers, women's underrepresentation at the political level and the insufficient protection in terms of sex-based violence. The ERA is considered to be the driver for the guarantee of gender equality and maternity rights in a proper and comprehensive way, changing one

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<sup>279</sup> C. Clark & S. K. Gallagher, *The influence of state maternity leave policies on US mothers' employment*. *Community, Work & Family*, 20(4), 459-478 (2017), pp. 461-462, 464-471.

<sup>280</sup> J. C. Suk, Are Gender Stereotypes Bad for Women-Rethinking Antidiscrimination Law and Work-Family Conflict. *Colum. L. Rev.*, 110, 1 (2010), pp. 19, 23-24.

<sup>281</sup> P. Berg, & M. M. Piszczek, *The limits of equality bargaining in the USA*. *Journal of Industrial Relations*, 56(2), 170-189 (2014), pp. 170-172.

<sup>282</sup> P. Berg, E. Kossek, D. Belman et al. (in press) *Do unions matter for work-life flexibility policy access and use?* *Industrial & Labor Relations Review* (2014), pp. 125-129.

for all the legal framework. However, for those convinced about the necessity for the law to intervene more effectively on these issues, it is not so evident that the ERA would appropriately solve the problem, stating that the amendment has actually been the result of the Supreme Court's interpretation of gender discrimination under the Equal Protection Clause and it does not recognize to the Congress expanded authority in respect to it. Without doubt, the fact that ERA constitutes a separate text related to gender equality could at least allow to adopt a different approach to the problem<sup>283</sup>, but it would also be necessary to adopt more open approaches, not considering anymore policies in favor of family and employment's flexibility as family-related matters, but rather as gender equality issues<sup>284</sup>.

#### ***4.3. Nordic European countries as a model for women's inclusion***

Several international indexes that identify the different levels of gender equality in each country rate the Nordic countries at the forefront of many global and regional surveys, such as the United Nations Development Program (UNDP), the World Economic Forum's Global Gender Gap, the Gender Equality Index and the EU's Gender Equality Index. In fact, these countries are considered to be more equal than the others, rendering them as a model of *woman-friendly* societies. For instance, for what concerns the Gender Equality Index - observed by the European Institute for Gender Equality (EIGE) and which measures the average level of gender equality in each country according in some specific domains -, all three Nordic European countries – Sweden, Finland and Denmark – provide a total score of about 70 points, not reached by any other European country, followed by the Netherlands and Belgium<sup>285</sup>. In fact, Nordic countries are characterized, differently from other developed nations, by high levels of female employment and sufficiently high fertility rates, and they have been among the first European countries to introduce several policies favorable to parents with young children, considering parenthood as a political issue and not originally motivated by reproductive objectives, but rather driven by gender equality reasons. According to the distinction, made by Walter Korpi (2000) - based on the institutional structures of countries in terms of gender inequality - between general family support, dual-earner and market-oriented models, Nordic countries are generally considered to follow a separated welfare state paradigm, providing policies in support to a *dual-earner* family model (Korpi, 2000). While the general family support includes policy instruments – presumed to be gender-neutral -, aimed at encouraging the reproduction of a traditional division of

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<sup>283</sup> J. C. Suk, *An Equal Rights Amendment for the twenty-first century: Bringing global constitutionalism home*. *Yale JL & Feminism*, 28, 381 (2016), pp. 381, 388, 390-395.

<sup>284</sup> P. Berg & M. M. Piszczek, *The limits of equality bargaining in the USA*. *Journal of Industrial Relations*, 56(2), 170–189 (2014), pp. 176-177, 181.

<sup>285</sup> M. Teigen & H. Skjeie, *The Nordic Gender Equality Model*, I: Oddbjørn P. Knutsen (red.), *The Nordic Models in Political Science. Challenged, but Still Viable?* (2017), pp. 1-2.

housework and supporting childcare, the *dual-earner* model is more focused on encouraging women's employment and, at the same time, enabling both parents to find a balance between paid work and parenthood responsibilities – through the provision of parental leave - with the attempt to re-allocate housework among the family members<sup>286</sup>.

Overall, Nordic statistics – made with data collected by the Nordic Council of Ministers – have revealed a relative balance among Scandinavian countries in terms of women's employment rate, despite some country-to-country differences in terms of economic equity or democratic parity, according to which Sweden has the highest score for the former, while Finland presents the highest level of the latter, all above the EU average<sup>287</sup>. Some transnational comparative analyses conducted in terms of gender equality demonstrate that the presence of egalitarian values is strictly related to cultural attitudes characterizing each country, with the result that many Nordic countries are usually more open to equality's stances as well as women's political participation and inclusion. In fact, as mentioned in previous chapters, culture is often identified as a core element in the gender-equality discourse, having the potential to create a more sensitive framework towards women's stances, providing more opportunities for the development of rights and policies in favor of their engagement in education and employment and transforming the traditional concept view of women as caretakers and household keepers. Norway and Sweden have often been considered as two distinct, but still similar, examples of different approaches towards gender equality, the former representing a model of *liberal* feminism – more focused on an individualistic perspective and women-oriented policies -, and the latter as an example of *radical* feminism – according to which gender differences are mainly caused by the male-dominated structure of societies. In general, it has been noted that the radical character of the Swedish approach has produced more intense changes in terms of gender-equality, with higher percentages of women in Parliament, while in Norway emphasis has been posed upon the introduction of quotas as an instrument to guarantee women's political participation<sup>288</sup>. Moreover, according to Jakobsson & Kotsadam (2010), even though both countries report a general positive view about women's employment and a fair division of housework duties within couples, there is a more positive attitude in Sweden than in Norway, probably due to the longer history in terms of

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<sup>286</sup> T. Lappegård, *Family policies and fertility in Norway. European Journal of Population/Revue européenne de Démographie*, 26(1), 99-116 (2010), pp. 101-102.

<sup>287</sup> M. Teigen & H. Skjeie, *The Nordic Gender Equality Model*, I: Oddbjørn P. Knutsen (red.), *The Nordic Models in Political Science. Challenged, but Still Viable?* (2017), pp. 4-5.

<sup>288</sup> M. Teigen & L. Wängnerud, *Tracing gender equality cultures: Elite perceptions of gender equality in Norway and Sweden. Politics & Gender*, 5(1), 21 (2009), pp. 21-23, 29, 37-38.

egalitarian public policies characterizing the former, while Norway is actually more supportive towards government policies in favor of gender equality than Sweden<sup>289</sup>.

#### ***4.3.1. Norway as a model for gender-aid and family policies***

Norway is a constitutional monarchy since 1814 and became independent from Sweden in 1905. Nowadays, it is considered as a successful model of welfare, to be exported in other countries. What distinguishes Norway from the other Scandinavian countries and which induces to define it a *public welfare* state (Esping-Andersen, 1990), is the particular relationship between the public sphere and the labor market, with one of the highest levels of women's employment in Europe. In fact, thanks to the National Insurance Scheme (NIS), the Norwegian state provides financial assistance to cover unemployment, childcare and pregnancy, elderly's care and pensions to all individuals which habitually work and/or live in Norway<sup>290</sup>.

The 1814 Constitution initially did not recognize women's legal status and they gradually obtained access to several rights only since the 1840s, until the guarantee of political rights at the beginning of the twentieth century. Actually, women have been for a long time excluded from some categories of jobs and educational opportunities and, only in the late nineteenth century, they have been allowed to access other levels of education as well as property rights. In 1884, it was established *the Norwegian Women's Rights Association*, demanding several rights for women, in terms of suffrage, employment, marriage, education and so on, followed by the institution of the *National Women's Suffrage Association*, created in 1898. Norway has been the first country in the world to guarantee women's suffrage, probably due to the independence gained from Sweden in 1905. During the twentieth century, some measures favorable to mothers started to be introduced, claiming the right for women to choose whether to have children or not. An important turning point was represented by the reform of the tax system, in 1959, which guaranteed women's financial independence, introducing separate taxation for married couples and enhancing women's access to employment. During that year, Norway also ratified the ILO convention no. 100 regarding equal pay and set-up the Council on Equal Pay, with the aim to guarantee gender-equal wages. However, until the 1970s, the different governments that have succeeded in Norway have not pursued specific gender equality policies, but rather women's and family measures, and it was only between the 1960s and the 1980s – characterized by the increasing participation of women in the labor market and bottom-up

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<sup>289</sup> N. Jakobsson & A. Kotsadam, *Do attitudes toward gender equality really differ between Norway and Sweden?* *Journal of European Social Policy*, 20(2), 142-159 (2010), pp. 142-144.

<sup>290</sup> O. H. Angell, *Welfare, church and gender in Norway. Welfare, church and gender in eight European countries*, 63-102 (2004), pp. 63, 67, 71.

mobilization – that the Norwegian government started to adopt several policies in the context of gender equality, based on a strong consideration of gender differences and a noticeable value of motherhood and women’s rights. For instance, in order to increase women’s political representation, gender quotas started to be considered as a useful instrument to guarantee the presence of more female candidates in electoral campaigns and political parties’ lists<sup>291</sup>.

In the last fifteen years, substantial developments in the context of gender equality have been reached and family policies have progressively moved towards the creation of a universal *caretaker* model, increasingly focused on women’s involvement in the labor market and on an equal share of family responsibilities between men and women<sup>292</sup>. Norway has a well-established tradition in terms of paid parental leave and job security policies, guaranteeing to working parents 54 weeks of leave period with 80% of wage remuneration or 44 weeks with 100% compensation. However, individuals are allowed to leave only if they have worked at least during the six months before childbirth, and mothers that cannot benefit of parental leave can obtain a cash payment exempted from tax at the time of birth. Behind the adoption of the paternity paid leave policy, there was the intention of the Norwegian government to render more realistic the combination between women’s occupation and family responsibilities, not only by guaranteeing mothers’ rights to remain in the labor market, but also by reducing the loss of income during the period of absence from work in relation to childbirth. Moreover, in 1993 it was introduced the “father’s leave” for a period of four weeks, conditional to the mother’s status of work and their possibility to have leave benefits<sup>293</sup>, and in 1998 it was introduced the childcare benefit, providing couples with children between twelve and thirty-six months a tax-exempted cash transfer, in order to guarantee families more flexibility for childcare, to provide money transfers to parents and to counterbalance those not covered by external childcare arrangements<sup>294</sup>.

The Norwegian family model has been defined as *double-tracked*, with the combination of dual-earner policies and some traditional breadwinner elements. For instance, while the introduction of the father’s leave was actually a political measure aimed at modifying the gender equilibrium within the

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<sup>291</sup> T. R. Korsvik (2014), *Gender equality policies in Norway: “Everybody’s job, nobody’s responsibility”*. Centre for Gender Research, pp. 9-16.

<sup>292</sup> M. T. Østebø & H. Haukanes, *Shifting meanings of gender equality in development: Perspectives from Norway and Ethiopia*. *Progress in Development Studies*, 16(1), 39-51 (2016), pp. 42-43.

<sup>293</sup> A. Nandi, D. Jahagirdar et al., *The impact of parental and medical leave policies on socioeconomic and health outcomes in OECD countries: a systematic review of the empirical literature*. *The Milbank Quarterly*, 96(3), 434-471 (2018), pp. 453-454.

<sup>294</sup> T. Lappegård, *Family policies and fertility in Norway*. *European Journal of Population/Revue européenne de Démographie*, 26(1), 99-116 (2010), pp. 101-102.

family – and it has had some positive implications in this sense, according to the study conducted by Lappegård (2010) -, the adoption of the childcare cash benefit had the objective to give parents the possibility to choose autonomously for childcare and it was intended to be gender-neutral, but it was actually used only by mothers<sup>295</sup>. In terms of behavioral consequences deriving from specific leave schemes, on the one hand, it could be said that paid maternity leave periods may enhance women's decision to remain in the labor market even after childbirth, but on the other hand, extended leave periods may perpetuate women's absence from work, having some negative consequences not only for their career prospects or pensions, but also in terms of levels of female employment. Moreover, since the first reforms in 1980s, Norway has been characterized by persistent wage differentials between men and women, culminated with the creation an *Equal Pay Commission*, in 2006, which recommended the reduction of gender pay gaps and the introduction of extended father's leave schemes. As a consequence, in the following years, the period of parental leave for fathers was extended from four to ten weeks<sup>296</sup>. The progressive elimination of the structural limits regarding parent's employment and the emphasis posed upon childcare and the need for fathers' greater involvement in housework - by the introduction of father's leave as a non-transferable option - has also determined some changes in the public opinion, leading to a more favorable environment for women's work and, especially, the equal sharing of household responsibilities between parents<sup>297</sup>. However, even though Scandinavian countries have started to promote parental leave policies earlier than other European countries – with particular focus on fathers' leave -, fathers have not significantly increased their involvement in childcare and household tasks, leaving the most part of it to women's responsibility<sup>298</sup>.

In 2010, the Red-Green government appointed an Equality Commission – composed by twelve researchers -, in order to assess the level of gender equality policies in Norway and find some solid bases for the future. According to the reports of the Equality Commission, the administrative structure provided for the implementation of gender equality policies was actually fragmented and too fragile to support the government's aspirations, posing emphasis on the need to strengthen the adoption of policies specifically aimed at guaranteeing gender equality in every employment sector, both at the public and at the private level. In this way, the goal was to transform gender equality from an

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<sup>295</sup> Ivi, pp. 113.

<sup>296</sup> M. Rønsen & R. H. Kitterød, *Gender-equalizing family policies and mothers' entry into paid work: recent evidence from Norway*. *Feminist Economics*, 21(1), 59-89 (2015), pp. 60-62.

<sup>297</sup> Ivi, pp. 60-62, pp. 83-84.

<sup>298</sup> S. Sümer, J. Smithson, M. das Dores Guerreiro & L. Granlund, *Becoming working mothers: Reconciling work and family at three particular workplaces in Norway, the UK, and Portugal*, *Community, Work & Family*, 11:4, 365-384 (2008), pp. 379-381.



individual issue to a collective one, focusing the attention on the promotion of democratic principles, voluntary choices, the guarantee of independence and vulnerability. With the launch of “Gender Equality 2014”, the government adopted the first comprehensive plan with the aim to extend gender equality guarantees to the different sectors of societies, specifying nine objectives and eighty-six initiatives to adopt, in terms of employment, childcare, education, work-life balance, equality of representation and opportunities and so on<sup>299</sup>.

Despite the high levels of women’s employment and the widespread presence of family policies, Norway is characterized by high levels of gender segregation in the labor market - one of the highest in the world - and women mainly work in the health and social services’ sectors and are still overrepresented in many policy-making positions, both in the private and public sector. The imbalance between the high levels of equality registered in Norway by several international indexes and the extremely segregated labor market has been partly explained by making a distinction between equality of *status* – which measures quantitative aspects, such as the distribution of education and employment, the political system, the level of wages and so on – and equality of *treatment* (Birkelund and Petersen, 2003) – which refers to the several opportunities given to both sexes in the different spheres of society. However, the guarantee of equal treatment does not necessarily implies the existence of equality of *status*. As a consequence, women’s intense participation in the labor market in Norway may be explained considering the “women-friendly” character of the Norwegian welfare state, focused on the adoption of public and family policies favorable to gender equality<sup>300</sup>. Some researchers have identified the so-called *welfare-state paradox* as an explanation for such contradiction, assuming that equality-based labor markets tend to be more gender-segregated than conservative welfare countries, but still in the middle of the statistics at the European level. In addition, it is important to underline that gender segregation is strictly linked to gender pay differentials, which are remarkably stable in Nordic countries, varying between 15% and 20%, considering that the majority of female-dominated jobs in the public sector are less paid than male-dominated ones in the private sector<sup>301</sup>.

The relationship between state and religion is another important aspect to consider in order to comprehensively understand the existing attitudes in Norway towards gender equality issues. In fact,

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<sup>299</sup> T. R. Korsvik (2014), *Gender equality policies in Norway: “Everybody’s job, nobody’s responsibility”*. *Centre for Gender Research*, pp. 6-8, 45-48.

<sup>300</sup> O. H. Angell, Welfare, church and gender in Norway. *Welfare, church and gender in eight European countries*, 63-102 (2004), pp. 73-75.

<sup>301</sup> M. Teigen & H. Skjeie, *The Nordic Gender Equality Model*, I: Oddbjørn P. Knutsen (red.), *The Nordic Models in Political Science. Challenged, but Still Viable?* (2017), pp. 6-7, 10-11.

Norway is one of the few outstanding nations with an official state church and the King represents the constitutional governor of the Church of Norway<sup>302</sup>. The Norwegian Constitution, which recognizes the Evangelical Lutheran religion as the official religion of the state, with the right – included in 1964 – for all citizens to freely exercise their religion (Art. 2). Such deep and still strong relation between the state and the Church has posed some questions regarding the influence of the Norwegian Church upon the state’s legislation, especially in terms of gender equality and anti-discrimination policies. For instance, the Gender Equality Act originally included an exemption clause, stating that some of its provisions were non-applicable to specific types of organizations or religious communities, which have been later amended, in order to permit different treatments only in case of justifiable purposes<sup>303</sup>. The issue of gender equality has primarily been addressed by the Church of Norway with its participation at the “Ecumenical Decade (1988–1998) in Solidarity with Women”, promoted by the World Council of Churches, and it has been approached considering both the role of women and men and how gender is articulated in society. Since the General Synod reunited in 1990, the Church of Norway emphasized the necessity to ensure the extensive participation of both sexes at all levels of religious congregation, in order to encourage and motivate women’s freedom, participation and engagement in the Church’s mission. As a consequence, equality started to be conceived not in terms of quantity, but rather as a question of mentality and as a natural component of the Church’s life. However, it was problematic to change the traditional conceptualization of man and God towards the acceptance of equality between man and women as human beings, abandoning the traditional view of women as the “second sex”<sup>304</sup>. Furthermore, the constitutional interpretation of the Gender Equality Act in relation to the freedom of religion may lead to potential contradictions, considering that it “shall apply to all areas, except for the internal affairs of religious communities” (Section 2). As a consequence, in case of disagreement between the Church of Norway and the Gender Equality Act, the former often defends its position by referring to the Constitution and the exceptions enumerated in the Equality Act<sup>305</sup>.

#### ***4.4. The reaction of both the US and Nordic countries to the COVID-19 pandemic***

Contrarily to previous recessions that involved both the US and European countries - which affected more negatively men’s male-dominated than women’s -, the COVID-19 pandemic has produced more

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<sup>302</sup> O. H. Angell, Welfare, church and gender in Norway. *Welfare, church and gender in eight European countries*, 63-102 (2004), p. 87.

<sup>303</sup> U. Schmidt, *State, law and religion in Norway*. *Nordic Journal of Religion and Society*, 24(2), 137-153 (2011), pp. 141-142.

<sup>304</sup> O. H. Angell, Welfare, church and gender in Norway. *Welfare, church and gender in eight European countries*, 63-102 (2004), pp. 90-93.

<sup>305</sup> Ivi, p. 92.

serious consequences for women's employment in comparison to men's. In particular, women are often employed in fundamental health and social assistance jobs and, despite the greater recognition received by these categories of workers during the health emergency, they are insufficiently protected and also more exposed to contagion. Moreover, women are often overrepresented in precarious and non-stable occupations and have faced higher risks of losing their job during the lock-down period, producing a sharp increase in women's unemployment rate<sup>306</sup>.

In response to the emergency situation, European countries have implemented the so-called *short-time work* (STW) scheme, in support to worker's income whether they were not able to work under normal conditions (Eurofound 2020), and have introduced comprehensive measures in order to contain jobs and income's losses, expanding coverage to many categories of workers. In April 2020, fifty million workers were under STW schemes in Europe and the European Commission, recognizing the importance of these measures, has provided 100 billion euros of funding. However, although all STW schemes have been sensitive towards gender-based issues, in particular regarding non-standard workers, it has emerged the lack of explicit support for low-paid workers and the exclusion of some categories of jobs, highly dominated by women in several European countries. For instance, only few STW have explicitly acknowledged non-standard and temporary or part-time jobs and family leave periods have often not been included in the compensation income, giving low consideration to the need for childcare's support. Specifically, for what concerns the adequacy of the income compensation schemes provided by each country, Norway provided the highest level of remuneration (100%), followed by Italy (80%), even though none of them established a minimum level of wages for employees. Instead, in terms of childcare support, both Norway and Italy have provided extended periods of parental leave, but overall Norway has demonstrated a better performance in terms of gender-sensitive policies during the pandemic, with the introduction of explicit support also to low-wage workers<sup>307</sup>.

Similarly, the United States have adopted new subsidies and/or extended access to already existing arrangements and twenty-six states have put in place STW schemes. In addition, the National Domestic Workers Alliance has created the *Coronavirus Care Fund* for domestic workers facing adversity, in order to respond to their immediate needs<sup>308</sup>. Many American countries have also been forced to adopt effective measures in order to decrease pressure on working parents, by either

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<sup>306</sup> L. L. Carli, *Women, Gender equality and COVID-19. Gender in Management: An International Journal* (2020), pp. 1-2.

<sup>307</sup> R. Cook & D. Grimshaw, *A gendered lens on COVID-19 employment and social policies in Europe. European Societies*, 1-13 (2020), pp. 2-3, 5-9.

<sup>308</sup> ILO, Policy Brief, 2020, Available at ilo.org

extending the period of parental leave or providing financial aid to allow them to pay for childcare services, to counterbalance the increasing amount of unpaid housework, caused by the closure of schools. In particular, with the adoption of the *Families First Coronavirus Response Act* (FFCRA) in December 2020, it has been introduced a period of two weeks, up to eighty hours, of paid sick leave, with the possibility to extend it up to ten weeks for parents with children at home, either for school's closure or for childcare services' unavailability because of coronavirus reasons<sup>309</sup>. The act refers to specific categories of employees, both in the public and in the private sector, but it excludes those not protected by the FMLA, thus not expanding its coverage (US. Department of Labor, *Families First Coronavirus Response Act: Employee Paid Leave Rights*. (dol.gov). Surprisingly, according to some surveys, in the US the COVID-19 pandemic seems to have equally increased both parents' engagement in childcare and household responsibilities equally- even if in small percentage -, probably due to the fact that women were more involved in health care and service jobs, while men were working from home<sup>310</sup>.

For what concerns the healthcare response to the COVID-19 pandemic, the crisis has highlighted the already existing weakness of the United States' public health system, divided between the federal government, states and local governments. In fact, the effects of the contagion have been heterogeneous among American countries, hitting some states – such as New York, Washington and California – harder than others and requiring strong intervention at the national level. However, the responsibility of public health is mainly delegated to states and local authorities, while the federal government's action is more restricted and limited to the adoption of measures aimed at preventing the spread of contagion. Overall, it has emerged that states and local entities' intervention has not been enough to counteract the effect of the pandemic, lacking a unified response and emphasizing the dark side of a federalist form of government<sup>311</sup> and strengthening already existing inequalities.

By contrast, Nordic countries - with a level of GDP per inhabitant higher than the OECD average and with the lowest levels of public debt - were in a more favorable position to deal with the pandemic, not only from the economic point of view, but also considering the well-functioning healthcare sector, already before the crisis. However, the drop of real GDP and economic activity has produced considerable market disruptions even in these countries, with dramatic effects in the long-term. The Norwegian government adopted the first extensive package of measures in March 2020, with the aim to reduce the severe economic downturns caused by the crisis and to protect employment and

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<sup>309</sup> ILO, Policy Brief, 2020, Available at ilo.org.

<sup>310</sup> L. L. Carli, *Women, Gender equality and COVID-19. Gender in Management: An International Journal* (2020), pp. 2-5.

<sup>311</sup> R. L. Haffajee & M. M. Mello, *Thinking globally, acting locally—The US response to COVID-19. New England Journal of Medicine*, 382(22), e75 (2020).

individual's income, compensated by other additional measures introduced in the following months. Overall, the Norwegian government has put in place a high amount of public expenditure – defined by the Prime Minister as the “most wide-reaching measures never experienced in peacetime” (Brzozowski, 2020) - , in order to face the increasing levels of unemployment through the adoption of economic benefits and social aid policies. Without any doubt, the provision of cash flow to firms in order to allow them to continue paying their employees during the lock-down period has been one of the most prominent measures, supporting companies to reduce at the minimum the risk of increasing unemployment levels<sup>312</sup>. However, the long-term impact of the crisis over each country's economy is still difficult to predict, considering that the pandemic is not over yet and the fact that each prosperous nation actually depends upon the developments in the global economy.

Some studies have found some considerable positive relations between the level of economic inequalities and the amount of deaths registered during the COVID-19 pandemic, finding higher levels of equality and social progress in countries with female-led governments, such as Norway, Denmark, Finland and so on, in comparison to male-dominated ones (Italy, USA, Russia etc.). According to these results, female leaders appear more inclined towards healthcare and equality issues, prioritizing long-term social policies instead of short-term economic measures. Therefore, the fact that countries with higher levels of women's participation generally have higher well-being standards, and are more generous in the adoption of social policies, demonstrates that female leaders are generally more able to efficiently manage situations of crisis<sup>313</sup>.

Overall, the COVID-19 pandemic has demonstrated not only the necessity to facilitate the integration and protection of women and low-protected categories of workers in more formal types of employment, but also to strengthen father's participation in housework and childcare, through the introduction of more favorable social policies. Moreover, it has also emerged the great potential of women as workers and leaders and the need to change the traditional male-dominated view of leadership and other categories of jobs, towards the creation of more egalitarian and inclusive societies. At this regard, it would be necessary the promotion of anti-discrimination practices, with the aim to achieve the progressive reduction of gender differences, not only in terms of opportunities, but also in terms of wages.

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<sup>312</sup> B. Greve, P. Blomquist, B. Hvinden & M. van Gerven, *Nordic welfare states—still standing or changed by the COVID-19 crisis?* *Social Policy & Administration* (2020). Wiley Online Library

<sup>313</sup> L. Coscieme, L. Fioramonti, L.F. Mortensen et al., *Women in power: female leadership and public health outcomes during the COVID-19 pandemic*. *MedRxiv* (2020), pp. 10-11, 14-16.

## *Conclusions*

The objective of the present thesis was to examine gender equality as a *multidimensional* concept<sup>314</sup>, referring not only to the political level, but also and especially to the sphere of employment, in order to assess the effectiveness of constitutional provisions and/or policies towards women's greater participation in society and to investigate the main country-to-country differences, through a comparative analysis between Italy, the US and Nordic European countries.

Specifically, the analysis has proceeded as follows. First, it was provided a general theoretical overview about gender equality as a fundamental constitutional guarantee and the influence of constitutional language and interpretation over the perception of gender equality issues. Overall, it emerged that, despite the progressive implementation of women's rights in several modern constitutions, they are not gender neutral and often tend to favor men rather than women – even if not intentionally – due to the widespread use of masculine language<sup>315</sup>. One of the main objectives of several governments and international organizations around the world is the achievement of full gender equality at the political level, especially in terms of participation to public office's positions, considering that the political arena still represents the least-developed field<sup>316</sup>. At this regard, the introduction of gender quotas has represented the explicit attempt to compensate the structural or direct forms of discrimination against women deriving from the constitutional legal framework, even though it has been broadly criticized for violating the principle of merit. In general, it could be assumed that quotas alone are not sufficient to achieve complete gender equality in the political sphere, but should be supported by other instruments, aimed at overcoming institutional and ideological barriers that still prevent women from being fully represented and included<sup>317</sup>.

Proceeding with the conceptual analysis, I explored the phenomenon of gender discrimination in the workplace, with the scope to underline the strict correlation between constitutional rights and the necessity for their implementation, also in the sphere of employment. Moreover, it was mentioned the relationship between women empowerment and economic development, in order to provide evidence about the fundamental role played by women in contributing to the economic advancement

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<sup>314</sup> A. Löfström, *Gender equality, economic growth and employment*. Swedish Ministry of Integration and Gender Equality (2009).

<sup>315</sup> H. Irving, *Gender and the Constitution: Equity and agency in comparative constitutional design*. Cambridge University Press (2008), pp. 40-42.

<sup>316</sup> World Economic Forum, *Global Gender Gap Report 2020* (2020).

<sup>317</sup> D. Dahlerup, *Electoral gender quotas: Between equality of opportunity and equality of result*. *Representation*, 43(2), 73-92 (2007), pp. 73, 83.

of a country<sup>318</sup>, to be supported through their complete involvement in the workforce, without denying their rights and responsibilities as mothers. It emerged that the absence or the discriminatory character of existing policies regarding maternity leave, sexual harassment and so on exemplify the most significant obstacle for women's extended participation in employment and inclusion within several spheres of the society. Therefore, it is evident the need to favor significant policies towards the complete elimination of any form of gender discrimination as well as stereotypes, to be applied also to employment, in favor of women's concrete and full enjoyment of working rights.

The first chapter was fundamental to open the way to a more detailed analysis of both the national and international instruments in place towards women's protection and inclusion. Specifically, the European Union has progressively underlined the urgent necessity to address gender equality issues in a comprehensive way, implementing several policies - first of which the Equal Treatment Directive - with the aim to eliminate any form of gender-based discrimination, calling for member states' concrete intervention<sup>319</sup>. However, gender disparities are still diffused at the European level and represent a significant limit for the achievement of substantial outcomes in the sphere of employment. As a result, more recently, the EU Commission adopted the Gender Equality Strategy 2020-2025, with the primary concern of eliminating the unequal distribution of housework between parents, gender discrimination in the workplace, sexual harassment and so on<sup>320</sup>.

Outside the European Union, since the end of the First World War, the international community has frequently addressed the issue of gender equality and the necessity to promote adequate international instruments towards women's inclusiveness. For instance, women's rights and the guarantee of freedom, equality and security in the workplace are at the core of the International Labor Organization's principles and great efforts have been made at this regard since its creation in 1919. In this context, it was unavoidable to mention the United Nations, which comprehend 193 countries around the world and persistently promote gender equality as one of the leading principles of its action, including it as a Goal within the Sustainable Development Goals, part of the 2030 Agenda<sup>321</sup>. Moreover, the Beijing Declaration, signed in 1995, established for the first time the principle of equal participation of both women and men in the political sphere, with the attempt to formally regulate

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<sup>318</sup> S. Chant & C. Sweetman, *Fixing women or fixing the world? 'Smart economics', efficiency approaches, and gender equality in development* (2012), p. 518.

<sup>319</sup> E. F. Defeis, *The Treaty of Amsterdam: the next step towards gender equality?* Hein Online (1999), p. 12.

<sup>320</sup> Z. Blaskó, E. Papadimitriou & A. R. Manca, *How will the COVID-19 crisis affect existing gender divides in Europe* (2020), Luxembourg: European Union, p. 4.

<sup>321</sup> G. Koehler, *Tapping the Sustainable Development Goals for progressive gender equity and equality policy?* *Gender & Development*, 24(1), 53-68 (2016), pp. 54-58.

women's inclusion, guaranteeing their political representation<sup>322</sup>. However, despite the several efforts to prohibit gender discrimination and the progressive incorporation of the principle of gender equality within several constitutions around the world, twenty years after the adoption of the Beijing Declaration, several obstacles are still present in many countries that prevent the achievement of effective progress and women continue to be victims of numerous forms of discrimination. Additionally, since 2020, the G20 has declared its complete engagement towards women's economic participation and social protection, in order to ensure that gender discussions are integrated within G20 commitments and policies<sup>323</sup>. Nevertheless, the persistent lack of a common view among member states – both in the context of the European Union and the United Nations –, provides an incomplete system of guarantees and protection for women, still disadvantaged in many spheres of the society.

For what concerns the specific case of Italy, I found interesting to analyse the strong influence of the Catholic Church and the related traditional view of the family – based on the division of roles between women and men both in terms of employment and childcare responsibilities – and the extent to which it has influenced the introduction of several constitutional guarantees in favor of women. Although the Italian legal framework extensively recognizes women's rights and the principle of equal opportunities for both sexes, the lack of consistent policies aimed at guaranteeing work-family balance and the persistence of asymmetries in the distribution of childcare benefits, penalize women and their access to the labor market. Therefore, the still pronounced influence of the traditional family model, on the one hand, and the fact that the increased participation of women in employment has not corresponded to a decrease of their family's responsibilities, on the other, turn out to have negative consequences upon women's work. Without doubt, the progressive *flexibilization* of employment has partially contributed to ameliorate the situation, but there are still considerable gender gaps between women and men, especially in terms of employment<sup>324</sup>, even worsened during the COVID-19 pandemic, when the adoption of flexible forms of work emerged as the only valuable solution, for many employment sectors, in order to allow workers to perform their jobs while staying at home. Women have been actually more involved in *smart working* modalities (16.9%) in comparison to men (12.8%) (Corriere. it, 2021) and seemed to be more penalized by the crisis. In fact, according to data provided by ISTAT, in December 2020, the number of women employed decreased by 99% and

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<sup>322</sup> E. Lèpinard and R. Rubio-Marin, *Transforming gender citizenship: The irresistible rise of gender quotas in Europe*, Cambridge University Press (2018), pp. 1-2.

<sup>323</sup> V. Mancini, *Smart working e gender gap*. Rome Business School Research Center (2020), p. 21.

<sup>324</sup> M. Acconci, *La presenza femminile nella PA: il contesto italiano, il quadro normativo e la promozione delle pari opportunità* (2004), p. 85



women's employment was haltered by 3.2% in comparison to the previous month, while male employment gave up only 1%<sup>325</sup>.

These assumptions have been partially confirmed by the survey (Appendix) I realized, according to which a considerable percentage of women were greatly impacted by the COVID-19 crisis, often constrained to disproportional increase in the weekly hours dedicated to housework and childcare, in comparison to men. However, the majority of respondents expressed a positive opinion about smart working solutions, demonstrating the great potential of these alternative modalities of work, if well compensated and sustained adequately in terms of childcare and housekeeping.

Finally, the last chapter was focused on a comparative analysis between the US and Scandinavian countries, with particular attention to Norway, chosen as paradigmatic cases to demonstrate both the differences with the Italian model and the fact that, despite the efforts taken towards the achievement of noticeable results in the context of gender equality, different models of welfare states inevitably lead to the adoption of different behaviors towards women's inclusion. In fact, on the one hand, the United States, representing a liberal model, promote residual forms of social protection, posing emphasis on the market as the main instrument for regulating employment, and do not provide for childcare policies or paid family leave, except for some specific cases. On the other hand, Scandinavian countries – often defined as a *public-family* model – pursue the principle of universalism of rights, posing particular attention upon the provision of social and family rights, and consistently incentivize women's participation in the labor market, protecting their possibility to maintain their job also in case of maternity and supporting them with extensive childcare services. By contrast, Italy is considered to belong to the *familist* model, due to the *family-friendly* dimension of the welfare, based on the division of roles within the family between the male *breadwinner* and the female *caretaker* and more focused on the expenditure in pensions and care rather than for maternity and childcare services<sup>326</sup>. Even though Italy and the US may appear similar due to the limited presence of policies favorable for women and childcare's services in both, the distinction between the two is quite marked in terms of maternity leave, considering that Italy guarantees a relatively long period of maternity leave, even better paid than in other countries<sup>327</sup>. However, what favors Scandinavian countries in comparison to Italy is the predisposition towards higher levels of

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<sup>325</sup> A. Ducci, *Effetti della pandemia. Lavoro, la crisi colpisce le donne: sono il 98% di chi ha perso il posto*. Corriere.it (2021).

<sup>326</sup> M. Faioli and L. Rebuzzini, *Working papers della Fondazione Brodolini, Conciliare vita e lavoro: verso un welfare plurale* (2010), p. 9.

<sup>327</sup> A. Nandi, D. Jahagirdar et al., *The impact of parental and medical leave policies on socioeconomic and health outcomes in OECD countries: a systematic review of the empirical literature*. *The Milbank Quarterly*, 96(3), 434-471 (2018), pp. 435, 441.

expenditure in favor of childcare services and the achievement of work-life balance, especially for women.

Overall, the analysis demonstrates the great impact of a federal system of government over the *gendered* distribution of powers characterizing the United States, leading to a decentralized system, often unfavorable for women and the equilibrium between private life and work (Irving, 2008). On the other hand, Scandinavian countries appear to be a model both for women's inclusion and participation in several spheres of the society and for family and childcare policies, with the result that these countries are often positioned at the top of European and international ranks evaluating the level of gender equality, such as the Gender Equality Index, the UNDP (*United Nations Development Program*) and so on. In fact, these countries, differently from others, have high levels of female employment and sufficiently high fertility rates, among the highest in Europe.

During the COVID-19 pandemic, the different patterns characterizing these countries have emerged even more strongly, not only considering the adoption of financial measures in support to workers, but also the provision or not of family-leave and other childcare aid policies. Both European countries and the US have introduced some forms of subsidies or compensation schemes – including effective family measures - in order to respond to workers' immediate needs and to decrease pressure on working parents. However, from the sanitarian point of view, the crisis has reinforced the already existing weakness of the US' public health system as well as the presence of inequalities with the society, emphasizing the necessity for a federal unified response. Conversely, despite the generalized effects of the COVID-19 pandemic at the global level, Scandinavian countries were able to react more efficiently to the crisis, due to the high levels of economic development and well-functioning healthcare system<sup>328</sup>. At this regard, some studies have revealed a positive correlation between the level of economic inequalities and the amount of deaths registered during the COVID-19 pandemic. Moreover, female-led governments, such as Norway, appeared more concerned about healthcare and equality issues, prioritizing long-term social policies instead of short-term economic measures and being more able to react immediately to the crisis - with higher levels of equality and social progress -, in comparison to male-dominated ones, among others Italy and the US<sup>329</sup>.

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<sup>328</sup> B. Greve, P. Blomquist, B. Hvinden & M. van Gerven, *Nordic welfare states—still standing or changed by the COVID-19 crisis?* *Social Policy & Administration* (2020). Wiley Online Library

<sup>329</sup> L. Coscieme, L. Fioramonti, L.F. Mortensen et al., *Women in power: female leadership and public health outcomes during the COVID-19 pandemic*. *MedRxiv* (2020), pp. 10-11, 14-16.

In conclusion, the COVID-19 pandemic has strengthened already existing inequalities, emphasizing the necessity to promote women's greater integration and protection in employment and to adopt more favorable social and family-related policies, in order to sustain women's engagement in both work and family responsibilities. In fact, in comparison to previous crises, the COVID-19 pandemic has produced more serious consequences for women rather than for men, especially in terms of employment, also considering that women are often employed both in the healthcare and social assistance sectors and have faced higher risks of losing their jobs, when having non-stable or temporary occupations<sup>330</sup>. Moreover, the emergency situation has inevitably affected women's engagement in housework and childcare, reinforcing the necessity to strengthen both parents' participation in housework and childcare activities, through the introduction of more favorable social policies, towards the creation of more egalitarian and inclusive societies.

According to a survey conducted by Boston Consulting Group in 2020, taking into consideration some European countries, among which Italy, it emerged that during the first period of lockdown, despite a proportional increase in men's weekly hours spent on housekeeping, women continued to be more engaged in housework, performing about 15 unpaid hours more of housework in comparison to men. At this regard, a study of the EU Parliament's FEMM Commission suggested that the situation could be caused by the persistence of gender stereotypes rooted in the society and by wage inequalities, which often make more economically favorable for women to reduce their work in comparison to men<sup>331</sup>.

Recently, the EU adopted the Multiannual financial framework for the period 2021-2027, jointly with the Next Generation EU - a 750 billion euros temporary instrument adopted in order to repair the immediate economic and social damages caused by the COVID-19 pandemic -, in order to stimulate the reconstruction after the sanitarian crisis and to create a greener, digital, and resilient Europe, more able to respond to present and future challenges. Thirty percent of EU funds within the new long-term investment plan have been allocated to climate change and, especially, the protection of biodiversity and gender equality<sup>332</sup>, demonstrating the great engagement of the European Union towards the creation of more inclusive and equal societies, also considering the devastating consequences of the COVID-19 pandemic upon women.

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<sup>330</sup> L. Carli, *Women, Gender equality and COVID-19. Gender in Management: An International Journal* (2020), pp. 1-2.

<sup>331</sup> G. M. Ferraresi, *Next Generation EU: parliamo di parità di genere*. Available at: [Geopolitica.info](http://Geopolitica.info) (2021).

<sup>332</sup> Commissione europea, *Piano per la ripresa dell'Europa*. Available at: [ec.europa.eu](http://ec.europa.eu)

## ***Bibliography***

A. Boscati, *Il lavoro agile nell'ordinamento italiano come strumento di conciliazione dei tempi di vita-lavoro e di incremento della competitività nell'impresa e nella pubblica amministrazione* (2017).

A. Brandolini, *La disuguaglianza dei redditi personali: perché l'Italia somiglia più agli Stati Uniti che alla Germania?* R. Catanzaro e G. Sciortino (a cura di), *La fatica di cambiare. Rapporto sulla società italiana*, 133-153 (2009).

A. Ducci, *Effetti della pandemia. Lavoro, la crisi colpisce le donne: sono il 98% di chi ha perso il posto*. Corriere.it (2021).

A. Duvander, T. Lppegard, G. Andersson, *Family policy and fertility: fathers and mothers' use of parental leave and continued childbearing in Norway and Sweden*. *Journal of European Social Policy*, 20(1), 45-57 (2010).

A. Fenoglio, *Conciliazione vita-lavoro e incremento dell'occupazione femminile: una via per uscire dalla crisi* (2014).

A. Genna, *Alcune considerazioni sul principio di pari opportunità*. Norma quotidiano di informazione giuridica [online] (2016).

A. Gwiazda, *The Europeanization of flexicurity: the Lisbon Strategy's impact on employment policies in Italy and Poland*. *Journal of European Public Policy*, 18:4, 546-565 (2011).

A. Kunze, *Parental leave and maternal labor supply. Parental leave increases the family-work balance, but may have negative impacts on mothers' careers*. Norwegian School of Economics, Norway, and IZA, Germany (2016).

A. Löfström, *Gender equality, economic growth and employment*. Swedish Ministry of Integration and Gender Equality (2009).

A. Masselot, *The state of gender equality law in the European Union*. *European Law Journal*, Vol. 13, No. 2, pp. 152-168 (2007).

A. Mitra, J. T. Bang & A. Biswas, *Gender equality and economic growth: Is it equality of opportunity or equality of outcomes?*. *Feminist Economics*, 21(1), 110-135 (2015).

- A. Nandi, D. Jahagirdar et al., *The impact of parental and medical leave policies on socioeconomic and health outcomes in OECD countries: a systematic review of the empirical literature*. *The Milbank Quarterly*, 96(3), 434-471 (2018).
- A. R. Amar, Women and the Constitution. *Harv. JL & Pub. Pol'y*, 18, 465 (1994).
- A. Sharma, *Managing diversity and equality in the workplace*. Cogent Business & Management (2016).
- Altawyan, *Rethinking Gender Equality in the Workplace* (2017). Available online at: <https://news.un.org/en/story/2020/03/1060702>
- B. Agarwal, *Gender equality, food security and the sustainable development goals*. *Current opinion in environmental sustainability*, 34, 26-32 (2018).
- B. Baines and R. Rubio-Marin, *Introduction: Toward a feminist constitutional agenda*. *The Gender of Constitutional Jurisprudence*. Cambridge University Press (2004).
- B. Baltes, M. A. Clark and e M. Chakrabarti, *Work-life balance: The roles of work-family conflict and work-family facilitation*. *The Oxford Handbook of Positive Psychology* (2010).
- B. Greve, P. Blomquist, B. Hvinden & M. van Gerven, *Nordic welfare states—still standing or changed by the COVID-19 crisis?* *Social Policy & Administration* (2020). Wiley Online Library.
- B. Greve, P. Blomquist, B. Hvinden & M. van Gerven, *Nordic welfare states—still standing or changed by the COVID-19 crisis?* *Social Policy & Administration* (2020). Wiley Online Library
- C. A. MacKinnon, *Feminism Unmodified: Discourses on Life and Law*. Cambridge, MA: Harvard University Press (1987).
- C. B Buehler and M. O'Brien, *Mothers' Part-Time Employment: Associations with Mother and Family Well-Being*. University of North Carolina, Greensboro. American Psychological Association. Vol. 25, No. 6, 895–906 (2011).
- C. Barnard. "EU Employment Law and the European Social Model: The Past, the Present and the Future." *Current legal problems*. 199–237 (2014).
- C. Casey, R. Skibnes and J. K. Pringle, *Gender Equality and Corporate Governance: Policy Strategies in Norway and New Zealand* (2011)

- C. Casey, R. Skibnes and J. K. Pringle, *Gender Equality and Corporate Governance: Policy Strategies in Norway and New Zealand* (2011)
- C. Goldin, *The Quiet Revolution That Transformed Women's Employment, Education, and Family*. *American Economic Review* 96 (2): 1—21 (2006).
- C. Lopez & O. Contreras, *Gender Equality Discussion within the G20*. *Milken Institute W*, 20 (2020).
- C. Lopez and O. Contreras, *Gender equality discussion within the G20*, Milken Institute (2020).
- Commissione europea, *Piano per la ripresa dell'Europa*. Available at: [ec.europa.eu](http://ec.europa.eu)
- C. Pateman, *The Sexual Contract*. Stanford University Press (1988).
- C. Perez, *Invisible women* (2019).
- C. Saraceno, *Mutamenti della famiglia e politiche sociali in Italia*. Il Mulino (2003).
- C. Saraceno, *Politiche del lavoro e politiche della famiglia: un'alleanza lunga e problematica*. *Lavoro e diritto*, 15(1), 37-54 (2001).
- C. Schulze, *Institutionalized masculinity in US police departments: How maternity leave policies (or lack thereof) affect women in policing*. *Criminal Justice Studies*, 23(2), 177-193 (2010).
- Chartered Institute of Personnel and Development (CIPD), *Flexible working provision and uptake* (2012).
- Chartered Institute of Personnel and Development (CIPD), *Megatrends. Flexible working* (2019).
- D. Bobbitt-Zeher, *Gender discrimination at work: Connecting gender stereotypes, institutional policies, and gender composition of workplace*. *Gender & Society*, 25(6), 764-786 (2011).
- D. Cuberes & M. Teignier-Baqué, *Gender inequality and economic growth* (2012).
- D. Cuberes and M. Teignier, *Gender gaps in the labour market and aggregate productivity* (2012).
- D. Dahlerup, *Electoral gender quotas: Between equality of opportunity and equality of result*. *Representation*, 43(2), 73-92 (2007).
- Donne e lavoro, l'impatto del Covid e il futuro dell'occupazione femminile* (2020). Available at: [Corriere.it](http://Corriere.it)

- D. R. Eikhof, *A double-edged sword: twenty-first century workplace trends and gender equality*. European Institute for Gender Equality (2012).
- D. Stockemer & M. Tremblay, *Federalism and Women's Representation: Do federations have more women legislators than centralized states?* *Publius: The Journal of Federalism*, 45(4), 605-625, (2015).
- E. B. Barbier & J.C. Burgess, *Sustainability and development after COVID-19*. *World Development*, 135, 105082 (2020).
- E. Duflo, *Women empowerment and economic development*, *Journal of Economic Literature*, Vol. 50, No 4, pp. 1051–079 (2012).
- E. F. Defeis, *The Treaty of Amsterdam: the next step towards gender equality?* Hein Online (1999).
- E. Lèpinard and R. Rubio-Marin, *Transforming gender citizenship: The irresistible rise of gender quotas in Europe*. Cambridge University Press (2018).
- E. Olgiati & G. Shapiro, *Promoting gender equality in the workplace*. European Foundation for the improvement of living and working conditions (2002).
- E. Riva, *Familialism reoriented: continuity and change in work–family policy in Italy*. *Community, Work & Family*, 19:1, 21-42 (2015).
- EU Gender Action Plan 2016-2020. Available at <https://europa.eu/capacity4dev/public-gender/wiki/eu-gender-action-plan-2016-2020>.
- Eurofound, *COVID-19: Policy Responses Across Europe*. Dublin (2020)
- Eurofound, *Living, working and COVID-19 dataset*, Dublin (2020) Available online at: <http://eurofound.link/covid19data>
- European Commission, *Coronavirus Pandemic. Impact on Gender Equality* (2020).
- European Commission, *COVID-19 effects on gender divides in Europe* (2020).
- European Commission, *Gender Equality Strategy 2020-2025*. Available online at: [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/gender-equality/gender-equality-strategy\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/gender-equality/gender-equality-strategy_en)

- European Institute for Gender Equality, *Gender Equality Index 2019. Work-life balance* (2019).
- European Institute for Gender Equality, *Gender Equality Index 2019. Work-life balance* (2019)
- European Institute for Gender Equality, *Gender Equality Index 2020. Digitalization and the future of work* (2020).
- European Parliament, *COVID-19: Stopping the rise in domestic violence during lockdown* (2020).  
[Available online at: https://www.europarl.europa.eu/news/en/press-room/20200406IPR76610/covid-19-stopping-the-rise-in-domestic-violence-during-lockdown](https://www.europarl.europa.eu/news/en/press-room/20200406IPR76610/covid-19-stopping-the-rise-in-domestic-violence-during-lockdown)
- F. Crespi, *lo smart working in Italia*, Osservatorio Smart working (2016).
- F. H. Soriano and F. Mulatero, Knowledge policy in the EU: From the Lisbon strategy to Europe 2020. *Journal of the Knowledge Economy*, 1(4), 289-302 (2010).
- F. R. Trabucco, *Prime note al D.P.C.M. 8 marzo 2020: con l'emergenza Coronavirus la gerarchia delle fonti diventa un optional*. In LexItalia.it, n. 3/2020 (2020)
- G, Esping-Andersen, *The incomplete revolution*. Cambridge, Polity Press (2009).
- G. De Simone, *Tra il dire e il fare. Obiettivi e tecniche delle politiche per il lavoro femminile nella riforma Fornero*, in "Lavoro e diritto, Rivista trimestrale" 3-4/2012, pp. 589-608 (2012).
- 
- G. E. Birkelund and T. Petersen, *Det norske likestillingsparadokset: Kjønn og arbeid i velferdssamfunnet*, in I. Frønes & L. Kjølsvrød (eds.), *Det norske samfunn*. Oslo: Gyldendal akademisk (2003)
- G. Esping-Andersen, *The three worlds of welfare capitalism*; Cambridge: Polity Press & Princeton, Cambridge, Princeton University Press (1990).
- G. Ferraino, *Bankitalia, in smart working 1,8 milioni. L'allarme sulla scuola*. Available at: Corriere.it (2021).
- G. Johnsson-Latham, *A study on gender equality as a prerequisite for sustainable development. Report to the Environment Advisory Council 2* (2007).
- G. Koehler, Tapping the Sustainable Development Goals for progressive gender equity and equality policy? *Gender & Development*, 24(1), 53-68 (2016).



G. M. Ferraresi, *Next Generation EU: parliamo di parità di genere*. Available at: Geopolitica.info (2021).

G. Pino & A. Schiavello, *Le discriminazioni di genere nel diritto italiano* (2015).

*Gender Equality and the Empowerment of Women and Girls, Implementing the EU Gender Action Plan II 2016–2020 Policy document*. Europe integration foreign affairs, Federal Ministry Republic of Austria, Austrian Development Agency (2017).

H. Charlesworth, *A Law of One's Own? : Feminist Perspectives on Equality and the Law*. *Meanjin*, 51(1), 67 (1992).

H. Charlesworth, *What are “Women’s International Human Rights”?*

H. Irving, *Gender and the constitution*, Cambridge University Press (2009).

H. Selbervik & M. Tolo Østebø, *Gender Equality in International Aid: What has Norwegian Gender Politics Got to Do With It?* *Gender, Technology and Development*, 17:2, 205-228 (2013).

H. Skjeie, C. Holst & M. Teigen, *Benevolent Contestations: Mainstreaming, Judicialisation, and Europeanization in the Norwegian Gender+ Equality Debate*, In Heather MacRae & Elaine Weiner (ed.), *Towards Gendering Institutionalism*, Chapter 6. 121 – 143 (2017).

I. Ahmed, *Technology and Feminisation of Work*. *Economic and Political Weekly*, 29(18) (1994). Available at: <http://www.jstor.org/stable/4401134>

I. Sulkunen, *An International Comparison of Women’s Suffrage: The Cases of Finland and New Zealand in the Late Nineteenth and Early Twentieth Century*, *Journal of Women's History*, Volume 27, Number 4, pp. 88-111 (2015).

*ILO, ABC of women workers’ rights and gender equality*. Geneva, International Labour Office (2000).

ILO-Eurofound Report, *Working anytime anywhere: the effects on the world of work* (2017).

Inter-Parliamentary Union (2019), *Women in national parliament*.

ISTAT, *Rapporto annuale 2020* (2020). Available at: Istat.it

ISTAT, *Situazione e prospettive delle imprese nell'emergenza sanitaria Covid-19* (2020). Available at: [www.istat.it](http://www.istat.it)

ISTAT, *Tasso di occupazione per la popolazione in età da lavoro, 2019* (2019). Available at: [Istat.it](http://Istat.it)

J. Bebbington & J. Unerman, *Achieving the United Nations sustainable development goals. Accounting, Auditing & Accountability Journal* (2018).

J. C. Gornick & M. K. Meyers, *Institutions that support gender equality in parenthood and employment. Gender equality: Transforming family divisions of labor*, 3-64 (2009).

J. C. Suk, *An Equal Rights Amendment for the twenty-first century: Bringing global constitutionalism home. Yale JL & Feminism*, 28, 381 (2016).

J. C. Suk, *Are Gender Stereotypes Bad for Women-Rethinking Antidiscrimination Law and Work-Family Conflict. Colum. L. Rev.*, 110, 1 (2010).

J. C. Suk, *Working Mothers and the Postponement of Women's Rights from the Nineteenth Amendment to the Equal Rights Amendment. Forthcoming, University of Colorado Law Review*, 92(3), (2021).

J. E. Yavorsky, C. M. Dush, & S. J. Schoppe-Sullivan, *The Production of Inequality: The Gender Division of Labor Across the Transition to Parenthood. Journal of marriage and the family*, 77(3), 662–679 (2015).

J. G. Zimmerman, *The Jurisprudence of Equality: The Women's Minimum Wage, the First Equal Rights Amendment, and Adkins v. Children's Hospital, 1905–1923. Journal of American History*, 78(1), 188-225 (1991).

J. Heintz, *Missing women: The G20, gender equality and global economic governance. Political Economy Research Institute, University of Massachusetts at Amherst* (2013).

J. S. Mosher and D. M. Trubek, *Alternative Approaches to Governance in the EU: EU Social Policy and the European Employment Strategy* (2003).

J. Sapiano and B. Baines, *Feminist Curiosity about International Constitutional Law and Global Constitutionalism. Journal of the Oxford Centre for Socio-Legal Studies, Issue 1* (2019).

J. Zeitlin, *A Decade of Innovation in EU Governance: The European Employment Strategy, the Open Method of Coordination, and the Lisbon Strategy* (2007).

- J.C. Barbier, *Changes in political discourse from the Lisbon Strategy to Europe 2020: tracing the fate of 'social policy'*. (2011).
- K. S. Zippel, *Gender Equality Politics in the Changing European Union: The European Union Anti-Discrimination Directive and Sexual Harassment* (2006).
- K. Stainback, T. N. Ratliff, & V. J. Roscigno, *The context of workplace sex discrimination: Sex composition, workplace culture and relative power*. *Social Forces*, 89(4), 1165-1188 (2011).
- L. Caldwell, *Italian Family Matters. Women, politics and legal reform* (1991).
- L. Coscieme, L. Fioramonti, L.F. Mortensen et al., *Women in power: female leadership and public health outcomes during the COVID-19 pandemic*. *MedRxiv* (2020).
- L. Errichiello e T. Pianese, *Ripensare il remote working: le opportunità degli Smart Work Center* (2014).
- L. Gastaldi, M. Corso, E. Raguseo, P. Neirotti, E. Paolucci & A. Martini, *Smart working: Rethinking work practices to leverage employees' innovation potential*. In *Proceedings of the 15th International CINet Conference*, Vol. 100 (2014).
- L. L. Carli, *Women, Gender equality and COVID-19*. *Gender in Management: An International Journal* (2020), pp. 2-5.
- L. Reisel, K. M. Østbakken and P. Attewell, *Dynamics of Claims Making and Gender Wage Gaps in the United States and Norway*, *Social politics*. Volume 26 n. 1 (2019)
- L. Reisel, K. Misje Østbakken and P. Attewell, *Dynamics of Claims Making and Gender Wage Gaps in the United States and Norway*, *Social politics* (2019) Volume 26 n. 1.
- L. Vogel, *Mothers on the Job: Maternity Policy in the U.S. Workplace* (2009)
- Le misure del Governo a sostegno delle famiglie italiane* - Ministero dell'Economia e delle Finanze (2020). Available at: [mef.gov.it](http://mef.gov.it).
- M. A. Bracke, *Feminism, the state, and the centrality of reproduction: abortion struggles in 1970s Italy*. *Social History*, 42(4), 524-546 (2017).
- M. Acconci, *La presenza femminile nella PA: il contesto italiano, il quadro normativo e la promozione delle pari opportunità* (2004).

- M. Cinelli, G. Ferraro e O. Mazzotta, *Il nuovo mercato del lavoro: dalla riforma Fornero alla legge di stabilità 2013* (2013).
- M. Daly, *EU social policy after Lisbon*. *JCMS: Journal of Common Market Studies*, 44(3), 461-481 (2006)
- M. Doepke & M. Tertilt, *Women's Liberation: What's in it for Men? The Quarterly Journal of Economics*, 124(4), 1541-1591 (2009).
- M. Faioli and L. Rebuzzini, *Working papers della Fondazione Brodolini, Conciliare vita e lavoro: verso un welfare plurale* (2010).
- M. L. Krook & P. Norris, *Beyond quotas: Strategies to promote gender equality in elected office. Political Studies*, 62(1), 2-20 (2014).
- M. L. Krook, *Reforming representation: The diffusion of candidate gender quotas worldwide. Politics & Gender*, 2(3), 303 (2006).
- M. Naldini & C. Saraceno, *Conciliare famiglia e lavoro*, Bologna (2011), 48 ss.
- M. Plattner, *The Status of Women Under International Human Rights Law and the 1995 UN World Conference on Women*, Beijing, China (1995).
- M. Rønsen & R. H. Kitterød, *Gender-equalizing family policies and mothers' entry into paid work: recent evidence from Norway. Feminist Economics*, 21(1), 59-89 (2015).
- M. Rønsen & R. H. Kitterød, *Gender-equalizing family policies and mothers' entry into paid work: recent evidence from Norway. Feminist Economics*, 21(1), 59-89 (2015).
- M. Russo, *Emergenza Covid-19 – Speciale n. 1*, Giustiziacivile.com (2020)
- M. Seymour, *Keystone of the patriarchal family? Indissoluble marriage, masculinity and divorce in Liberal Italy. Journal of Modern Italian Studies*, 10(3), 297-313 (2005)
- M. Smith and P. Villa, *The ever-declining role of gender equality in the European Employment Strategy. Industrial relations journal*, Vol. 41 (6), pp. 526-543 (2010).
- M. T. Østebø & H. Haukanes, *Shifting meanings of gender equality in development: Perspectives from Norway and Ethiopia. Progress in Development Studies*, 16(1), 39-51 (2016).

- M. T. Østebø & H. Haukanes, *Shifting meanings of gender equality in development: Perspectives from Norway and Ethiopia. Progress in Development Studies*, 16(1), 39-51 (2016).
- M. Teigen & H. Skjeie, *The Nordic Gender Equality Model*, I: Oddbjørn P. Knutsen (red.). *The Nordic Models in Political Science. Challenged, but Still Viable?* (2017).
- M. Teigen & H. Skjeie, *The Nordic Gender Equality Model*, I: Oddbjørn P. Knutsen (red.), *The Nordic Models in Political Science. Challenged, but Still Viable?* (2017).
- M. Vitaletti, *Emergenza Covid-19 – Speciale n. 1*, Giustiziacivile.com (2020)
- N. Jakobsson & A. Kotsadam, *Do attitudes toward gender equality really differ between Norway and Sweden? Journal of European Social Policy*, 20(2), 142-159 (2010).
- N. Jakobsson & A. Kotsadam, *Do attitudes toward gender equality really differ between Norway and Sweden? Journal of European Social Policy*, 20(2), 142-159 (2010).
- N. Kabeer and L. Natali, *Gender Equality and Economic Growth: Is there a Win-Win?* IDS Working Paper, Volume 2013, No 417 (2013).
- N. Kabeer, *Gender equality and women's empowerment: A critical analysis of the third millennium development goal 1*. *Gender & Development*, 13, 13–24 (2005).
- O. Rymkevich, *An overview of the regulatory framework for smart work in Italy: some critical remarks*. Marco Biagi Foundation, University of Modena and Reggio Emilia, Italy (2018).
- Organisation for Economic Cooperation and Development (OECD), *OECD Employment Outlook 2020* (2020).
- Organisation for Economic Co-operation and Development (OECD), *The Pursuit of Gender Equality. An Uphill Battle* (2017).
- Osservatorio sullo Smart Working del Politecnico di Milano, *Smart Working: sotto la punta dell'iceberg* (2017). Available at: [https://blog.osservatori.net/it\\_it/smart-working-sotto-la-punta-dell'iceberg](https://blog.osservatori.net/it_it/smart-working-sotto-la-punta-dell'iceberg)
- P. Berg & M. M. Piszczek, *The limits of equality bargaining in the USA. Journal of Industrial Relations*, 56(2), 170–189 (2014).

P. Berg & M. M. Piszczek, *The limits of equality bargaining in the USA*. *Journal of Industrial Relations*, 56(2), 170–189 (2014).

P. Berg, E. Kossek, D. Belman et al., *Do unions matter for work–life flexibility policy access and use?* *Industrial & Labor Relations Review* (2014).

P. Bozzao, *Le questioni di genere nella protezione sociale del lavoro discontinuo*, in "Lavoro e diritto, Rivista trimestrale" 3/2010, pp. 399-424 (2010).

Parlamento europeo, *All for equality - 2020 is a pivotal year for Gender Equality* (2020). Available at: [europa.eu](http://europa.eu)

R. Cook & D. Grimshaw, *A gendered lens on COVID-19 employment and social policies in Europe*. *European Societies*, 1-13 (2020).

R. Inglehart and P. Norris, *Rising Tide: Gender Equality and Cultural Change around the World* (2003).

R. L. Haffajee & M. M. Mello, *Thinking globally, acting locally—The US response to COVID-19*. *New England Journal of Medicine*, 382(22), e75 (2020).

R. Rubio-Marin and W. Kymlicka, *Gender parity and multicultural feminism: towards a new synthesis*, Oxford University Press (2019).

R. Rubio-Marin, *The (Dis) Establishment of Gender: Care and Gender Roles in the Family as a Constitutional Matter* *International Journal of Constitutional Law*, Volume 13, Issue 4, 787–818 (2016).

R. Rubio-Marin, *Women in Europe and in the World: The State of the Union 2016*, *International Journal of Constitutional Law*, Volume 14, Issue 3, 545–554, (2016).

*Recovery Fund, la bozza del Piano nazionale di ripresa e resilienza (Pnrr)*. Available at: [Corriere.it](http://Corriere.it) (2020).

S. Chant & C. Sweetman, *Fixing women or fixing the world? 'Smart economics', efficiency approaches, and gender equality in development* (2012).

S. Fredman, J. Kuosmanen, & M. Campbell, *Transformative equality: Making the sustainable development goals work for women*. *Ethics & International Affairs*, 30(2), 177-187 (2016).

- S. Ramo, *Gendering COVID-19: implications for women, peace and security* (2020), LSE
- S. Singh, *Deconstructing 'gender and development' for 'identities of women'*. *International Journal of Social Welfare*, 16(2), 100-109 (2007).
- S. Sümer, J. Smithson, M. das Dores Guerreiro & L. Granlund, *Becoming working mothers: Reconciling work and family at three particular workplaces in Norway, the UK, and Portugal*, *Community, Work & Family*, 11:4, 365-384 (2008).
- S. Velluti, *Promotion of gender equality at the workplace: gender mainstreaming and collective bargaining in Italy*, *Feminist Legal Studies* (2008).
- S. Wakefield, *The G20 and Gender Equality: How the G20 can advance women's rights in employment, social protection and fiscal policies*. Oxfam International (2014).
- S. Zappalà e F. Toscano, *Smart working in Italia: origini, diffusioni e possibili esiti* (2020).
- Smart working* – Ministero del Lavoro e delle Politiche Sociali (2020). Available at: [lavoro.gov.it](http://lavoro.gov.it).
- Statista, *Employment rate - Women in the U.S. 2019* (2019).
- T. Lappegård, *Family policies and fertility in Norway*. *European Journal of Population/Revue européenne de Démographie*, 26(1), 99-116 (2010).
- T. M. Alon, M. Doepke, J. Olmstead-Rumsey and M. Tertilt, *The impact of COVID-19 on gender equality*. National Bureau of Economic Research (2020).
- T. R. Korsvik, *Gender equality policies in Norway: "Everybody's job, nobody's responsibility"*. *Centre for Gender Research* (2014).
- U. Schmidt, *State, law and religion in Norway*. *Nordic Journal of Religion and Society*, 24(2), 137-153 (2011).
- UN Department of Economic and Social Affairs, *Goal 5*. Available at: [un.org](http://un.org)
- UN Department of Economic and Social Progress, *Progress on the Sustainable Development Goals. The gender snapshot 2019* (2019).
- UN Launches COVID-19 Plan that Could 'Defeat the Virus and Build a Better World'*.
- UN Secretary General's policy brief: the impact of COVID-19 on women* (2020)

UN Women, *Gender equality and women's empowerment: constitutional jurisprudence* (2017).

UN Women, *Policy Brief: The Impact of COVID-19 on Women* (2020).

UN, *The World Population Prospects: The 2017 Revision*

United Nations, *Transforming Our World: The 2030 Agenda for Sustainable Development*. UN document A/RES/70/1, "Preamble" (2015).

US. Department of Labor, *Families First Coronavirus Response Act: Employee Paid Leave Rights*. (dol.gov).

W. Kok, *Facing the challenge: the Lisbon strategy for growth and employment. Report of the High Level Group chaired by Wim Kok*. Luxembourg: Office for Official Publications of the European Communities (2009).

W. Korpi, *Faces of inequality: Gender, class and patterns of inequalities in different types of welfare states*. *Social Politics*, 127–191 (2000).

W. Leal Filho, L. L. Brandli, A. Lange Salvia, L. Rayman-Bacchus, & J. Platje, *COVID-19 and the UN sustainable development goals: threat to solidarity or an opportunity?* *Sustainability*, 12(13), 5343 (2020).

W. T. Bielby and J. N. Baron, *Men and Women at Work: Sex Segregation and Statistical Discrimination*. *American Journal of Sociology*, 759-99 (1986).

Women, U. N., *The Beijing declaration and platform for action turns 20* (2015).

World Economic Forum, *Global Gender Gap Report 2020* (2020). Available at: [weforum.org](https://www.weforum.org)

Z. Blaskó, E. Papadimitriou & A. R. Manca, *How will the COVID-19 crisis affect existing gender divides in Europe*, Luxembourg: European Union (2020).



## *Appendix*

*Research question: The impact of COVID-19 and smart working solutions upon women's employment*

### *Method*

In the previous paragraphs, I attempted to give an overview of the main legal and theoretical framework on gender equality both at the European and international level. Specifically, despite the different countries' approaches in the development of gender equality policies, it has emerged a generalized common effort towards the progressive recognition of women's rights and empowerment. As many national and international data show, women have actually gained greater involvement and participation in several employment sectors – either supported with the introduction of parental leave policies or childcare services – contributing to compensate the gender gap characterizing many nations. In recent times, some non-conventional organizational modalities of work have emerged, in order guarantee more flexibility and autonomy for both the choice of the working spaces, but also regarding the tools and tasks to accomplish. In particular, especially since the outbreak of the COVID-19 pandemic, in 2020, many countries have been progressively forced to introduce flexible working solutions.

In order to complete my analysis and to further demonstrate the way Italy reacted to the current situation – as already mentioned in Chapter 3 (3.4.1) -, I realized a survey composed of fifteen multiple choice questions, specifically addressed to Italian women between 18 and over 65 years old, with the aim to detect the effects of the COVID-19 crisis – and the consequences it implied - on women's employment and how they managed to organize their work from home without avoiding their childcare and housework's responsibilities. Specifically, the survey was expanded in January 2021 and I tried to diffuse the survey as homogeneously as possible, both in terms of region of origin, age and type of employment, thanks to my broad network, in order to render the results as much effective and realistic as possible.

### *Results*

According to the results of the survey, as it can be seen by Table 1, the lowest percentage of respondents (13%) are aged between 18 and 25 years old, probably due to the fact that the majority of them are still students and could not answer to many questions provided in the survey. Contrarily, the highest percentage of respondents (38%) are represented by women between 50 and 65 years old,

followed by those between 40 and 50 (28.8%) and 20.2% between 25 and 40 years old (20.2%). None of the respondents have more than 65 years old.

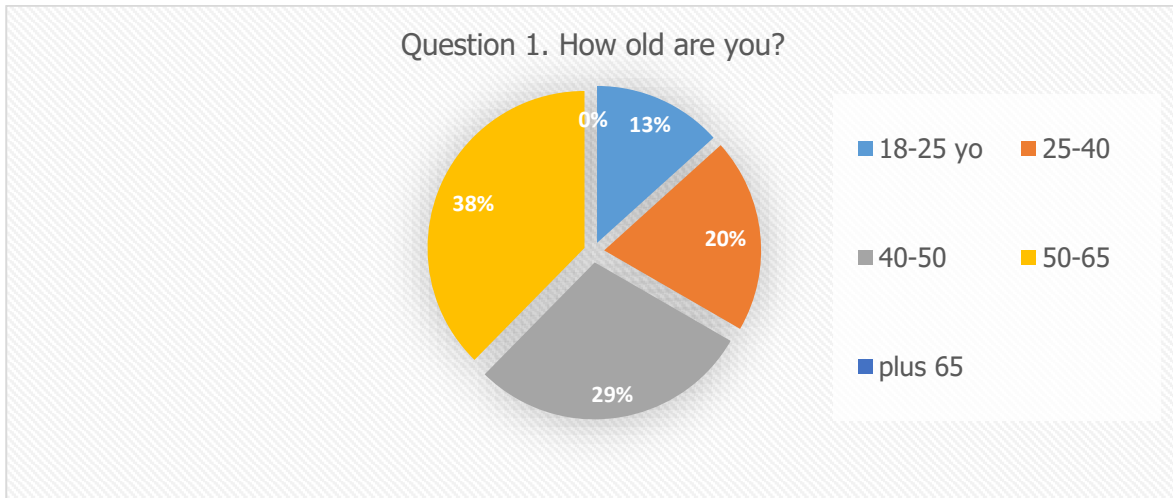


Table 1.

For what concerns the type of job in which the surveyed women are employed – if they currently have a job – as shown by Table 2 below, the majority of the respondents (around 53%) has a subordinate open-ended employment contract, while only the 15.9% has a fixed-term contract and the 14% is self-employed. Finally, around 10% is represented by housewives or unemployed individuals, and the lowest percentage (almost 7%) is characterized by women with an occasional work provision. Therefore, the following questions of the survey would comprehend especially workers having open-ended contracts, thus a more stable type of employment.

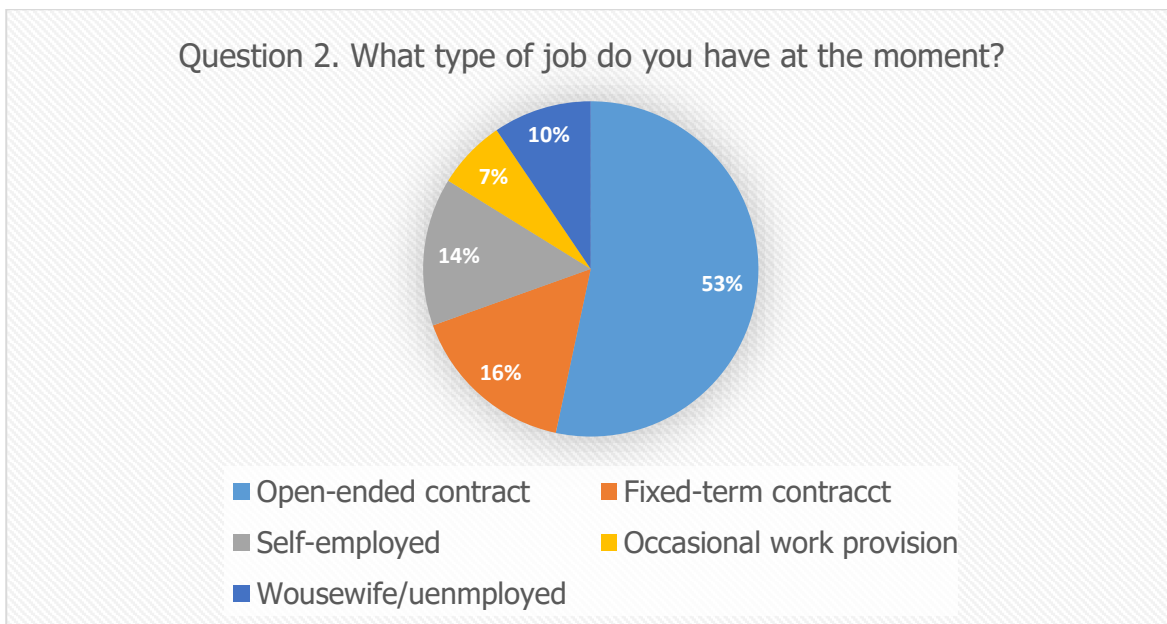


Table 2.

Coming to more specific questions related to the COVID-19 pandemic, according to results provided by Table 3 below, during the lock down period in Italy – officially declared on March 2020<sup>333</sup> - the majority of respondents were obliged to start working remotely from home and only 19% of them continued to work in the same way as before. Actually, only a minority of respondents were unemployed during the lock down period (around 9%) or had to temporarily abandon their job because they could not perform it in smart working modalities (8%). Finally, just 5% of respondents was included under a compensation income scheme for the provisional interruption of working. Actually, the Italian government adopted the first package of measures aimed at sustaining the economy in August 2020 (with Decree Law no. 104 of August 2020), providing both wages integration schemes and redundancy fund in derogation for several categories of workers. Moreover, in October 2020, with the so-called “Restoration Decree”, the government guarantee, with a total intervention of 1.6 billion, a further six weeks of ordinary redundancy fund in derogation and ordinary allowance in response to the COVID-19 crisis, to be used by companies that have exhausted the previous weeks provided by Decree Law n. 104/2020<sup>334</sup>.

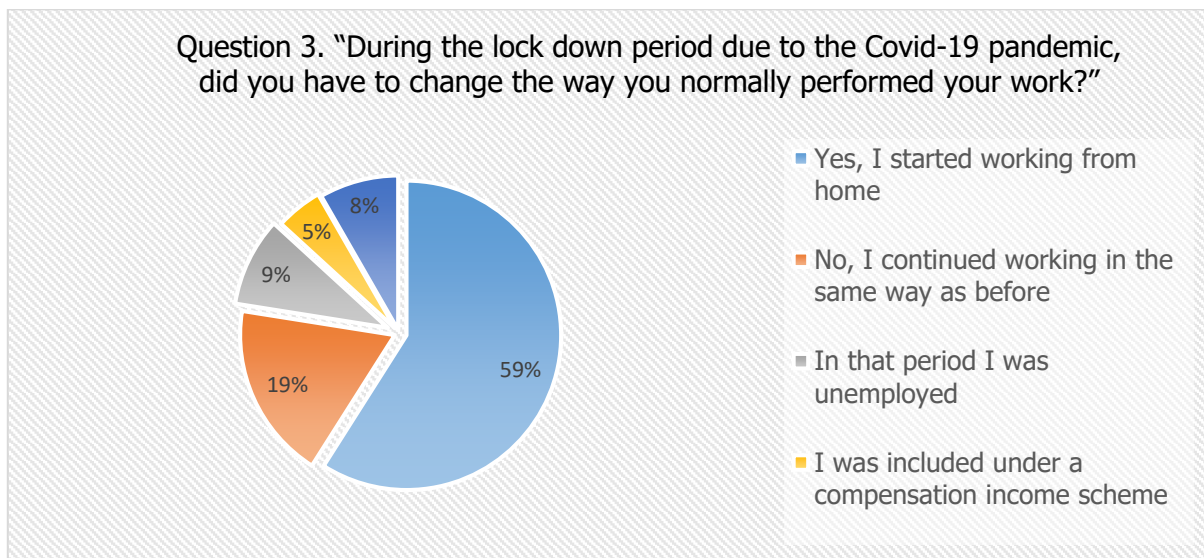


Table 3.

To those who responded “*Yes, I started working from home*” to Question 3, it was also asked to rate, on a scale from 1 to 10, their smart working experience, in order to assess whether it has been positive or negative. Overall, the majority of respondents expressed a relatively positive opinion, rating it from 7 to 10 out 10, as shown below by Table 4.

<sup>333</sup> F. R. Trabucco, *Prime note al D.P.C.M. 8 marzo 2020: con l'emergenza Coronavirus la gerarchia delle fonti diventa un optional*. In LexItalia.it, n. 3/2020 (2020)

<sup>334</sup> Decreto Ristori: proroga della cassa integrazione | [www.governo.it](http://www.governo.it)

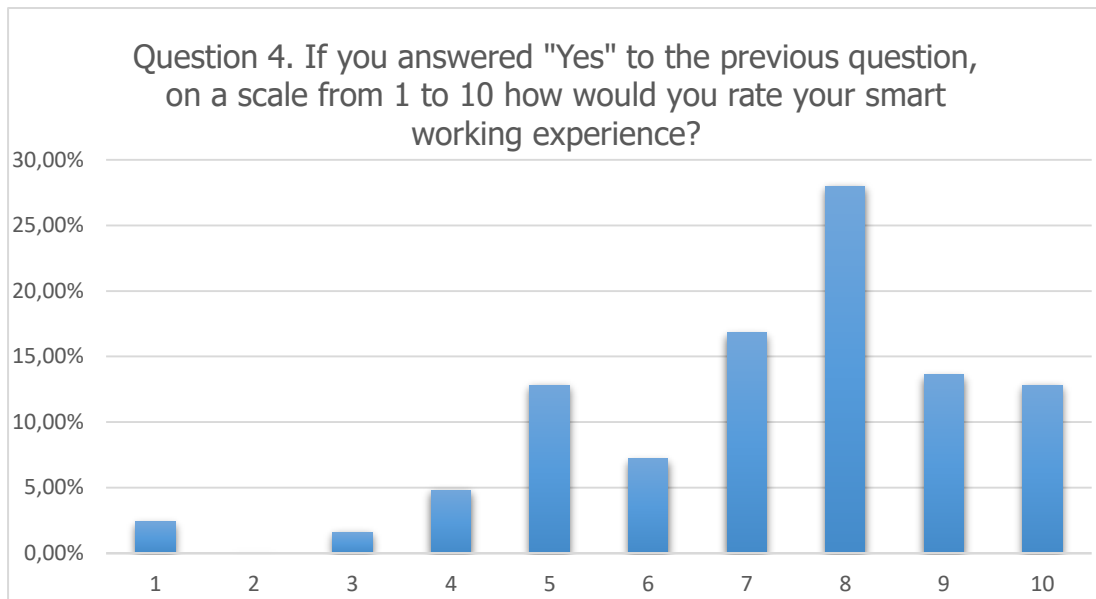


Table 4.

In order to understand the reasoning behind the answer to Question 4, it was asked to respondents – depending on the different rate expressed in the previous question - to explain the main advantages or disadvantages emerged during their smart working experience. Overall, women that expressed a positive rating (from 5 to 10), highlighted, among the main advantages, the greater flexibility and ability to organize autonomously their job, the possibility to save money and time - previously used for travelling to work -, but also the opportunity to spend more time at home and achieve a better equilibrium between private life and work. By contrast, among those who valued negatively their smart working experience (from 1 to 5), they complained about the lack of both adequate means to fulfill their working tasks from home and of direct contact with their clients and/or colleagues, the absence of fixed working hours and the difficulty in organizing their housework and childcare duties while working at home.

Even though the majority of respondents expressed a positive consideration about smart working and its related advantages, it is evident, as shown by Table 5, that individual's working activity has been deeply affected by the situation. Moreover, the closure of schools and the necessity for the majority of the population to start working from home during the lock down period, has inevitably increased women's engagement in housework and childcare duties - from 1 to 10 more hours per week than before, with a sharp majority (13.6%) responding "10 hours - as demonstrated by the answers given to Question 8, shown by Table 6 below. Therefore, it has become even more necessary for the government to adopt policies in support to working mothers, stimulating a further engagement of fathers in housework and childcare duties.

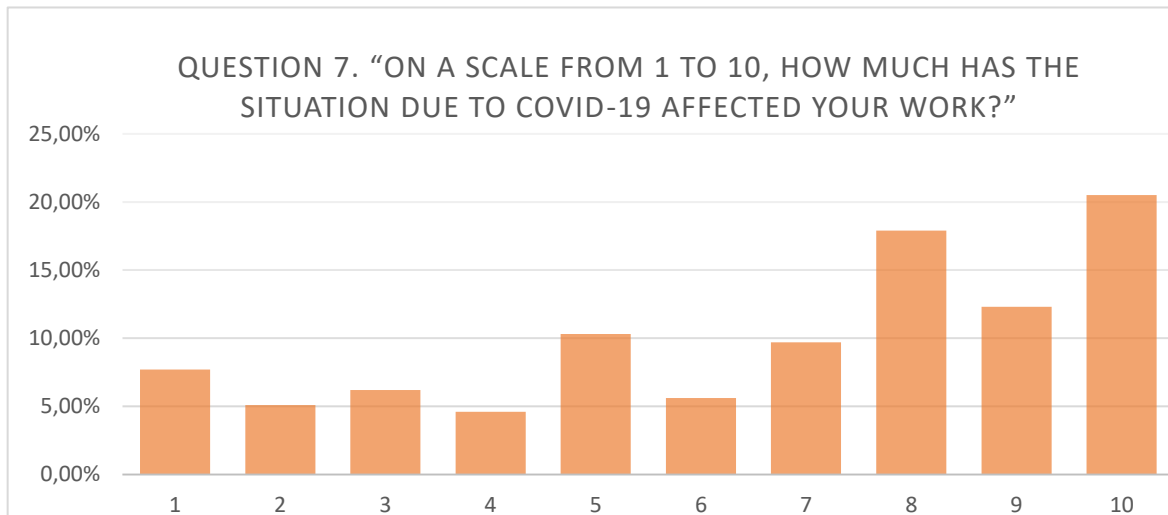


Table 5.

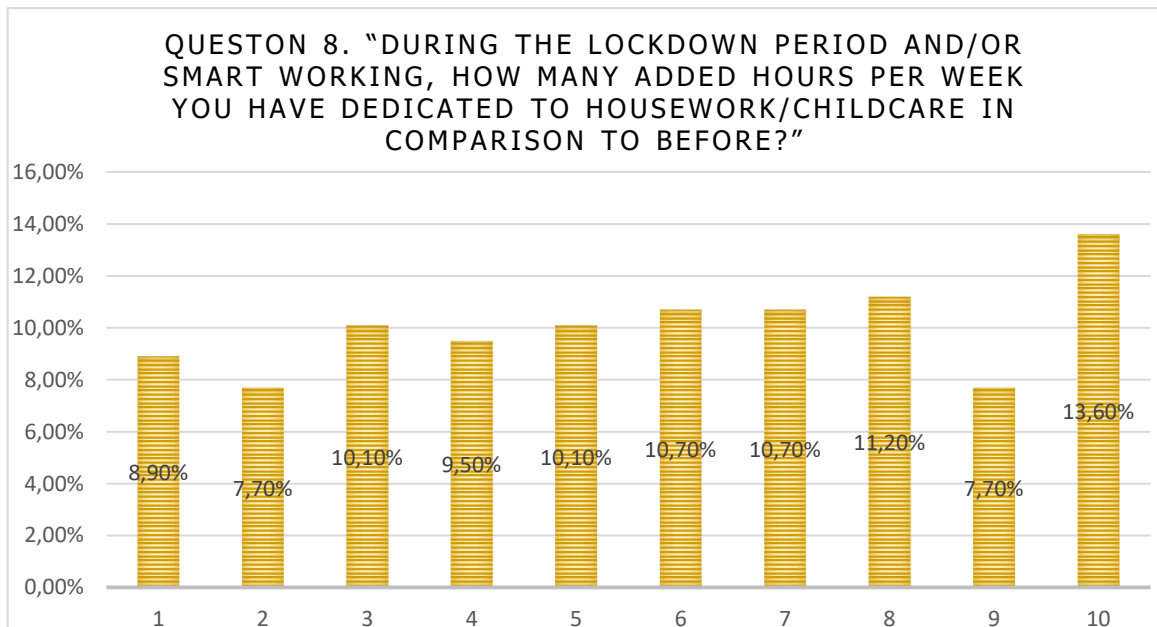


Table 6.

Actually, after the end of the lock down period in Italy, following the Decree of the President of the Council of Ministers adopted on May, 4 2020 (Gazzetta Ufficiale), the still high risk of contagion has forced companies to maintain smart working solutions, either in total or partially, In fact, as shown by Table 7, a consistent percentage of respondents continued to work from home (34.2%), while 32.6% started to alternate some days in their place of work and others at home. However, 28.3% of respondents do some types of jobs that could not be performed from home, requiring their physical presence in the workplace, while 4.8% of women remained unemployed and were not directly involved in the situation, since they had lost their job before the lockdown period.

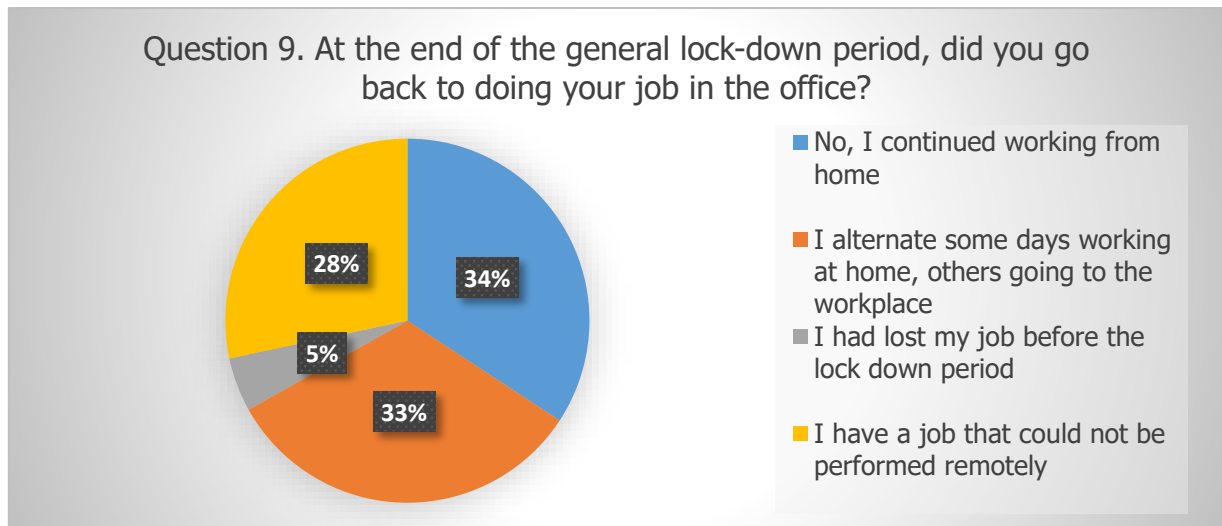


Table 7.

However, in terms of productivity and working’s efficiency, according to respondents, smart working solutions have not produced negative consequences, confirming the results shown by Question 4. In fact, as it can be seen in Table 8, only 4.1% of respondents claimed for the negative effects caused by smart working solutions on their working performance, while 26.4% valued it 1 out of 10 the negativity rate. This result demonstrates that, in the long-term, the adoption of flexible modalities of working – if adequately supported by digital devices and the development of new skills - could lead to positive results.

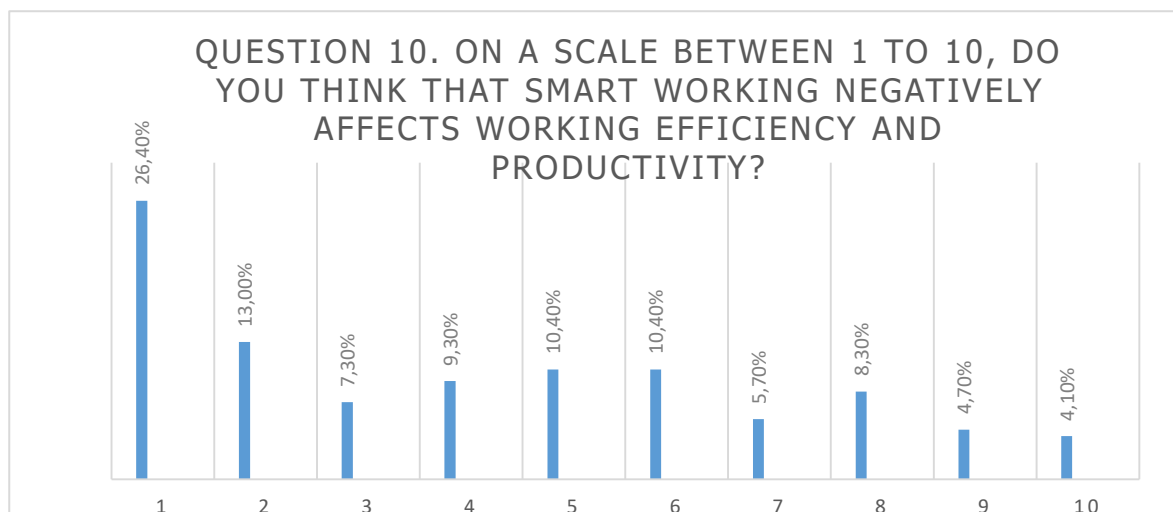


Table 8.

Nevertheless, if on the one hand, smart working has not produced profound effects upon working productivity, it has inevitably influenced the equilibrium between work and private life, broadly analysed in the previous chapters. In fact, as it can be seen in Table 9, to the question “*On a scale*

from 1 to 10, how much do you believe that smart working affects the balance between work and private life?”, the majority of respondents answered between 7 (15.3%) and 10 (19.5%) out of 10, demonstrating the unavoidable increasing engagement of working mothers in housework activities and the consequent overlap between working time and private life.

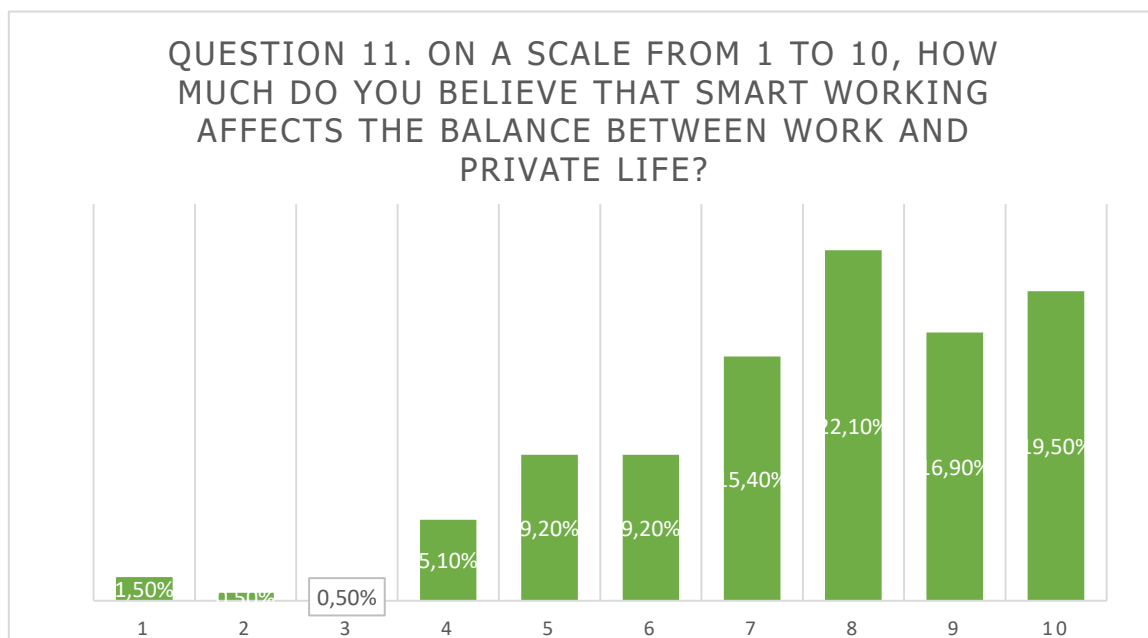


Table 9.

In order to analyse more in detail what was anticipated in Question 11, it was also asked to respondents (Question 12) whether smart working has increased their engagement as wives and/or mothers in housework activities. As shown by Table 10 below, 58.4% of respondents answered “Yes”, in opposition to a sharp minority (5.4%) that answered “No”. By contrast, 15.7% of women said that their housework’s involvement has remained unchanged, while about 16% of respondents are not married and do not have children, therefore they were not directly impacted by the situation. Furthermore, to those who answered “Yes” to Question 12, it was requested to express, if they could choose, their preference about the modality of working: either if they would maintain smart working even after the end of the COVID-19 emergency, or if they would choose to go back to the workplace, or alternately, if they would prefer to alternate some days in the workplace/office and some others working from home. According to the results – shown by Table 11 – a considerable majority of women (around 66%) would prefer a half-way solution, willing to spend some days working remotely and others in the workplace.

Question 12. *If you have expressed an assessment higher than 5 in the previous question, do you think that the remote mode of work has increased your commitment as mother/wife in domestic activities?*

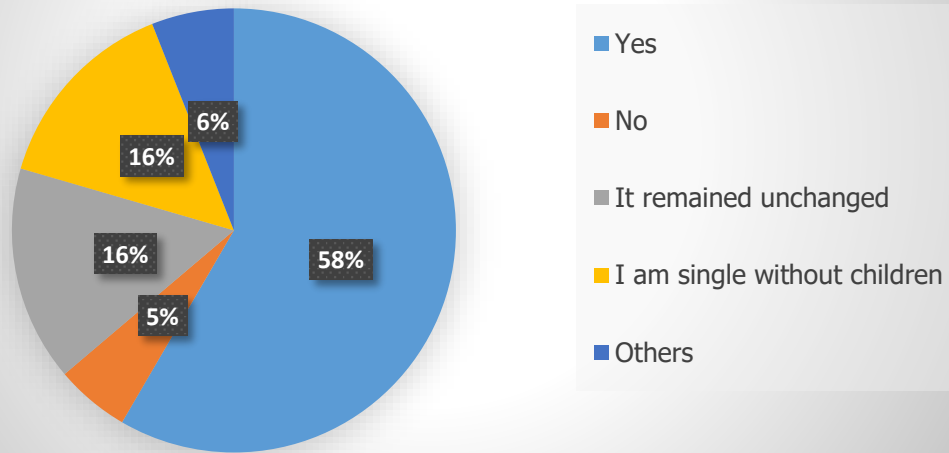


Table 10.

Question 13. *If you have answered "Yes" to the previous question, if you could choose, which solution would you prefer?*

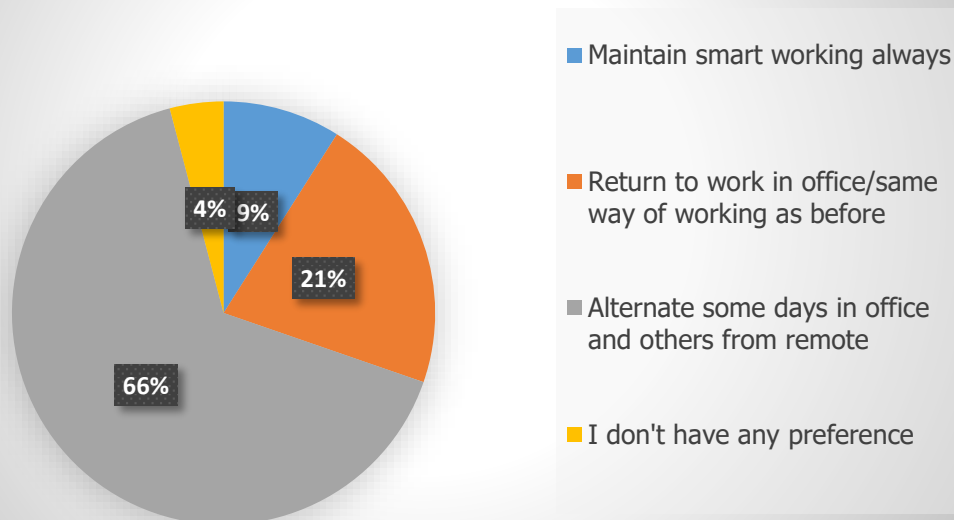


Table 11.

Finally, in order to complete the empirical analysis, it was asked to respondents (Question 14) – in particular to those who have children - whether they have benefited of babysitter vouchers or others childcare facilities introduced by the government during the lockdown period and if their decision has been influenced by economic reasons or fear of contagion (Question 15). As it can be seen in Table 12, only 5.3% of women used the babysitter vouchers, while the plurality of respondents



(around 65%) do not have minority children, thus did not have the necessity to make use of either babysitter vouchers or other childcare services. Instead, 16.6% of women stated that they received aid from other members of the family.

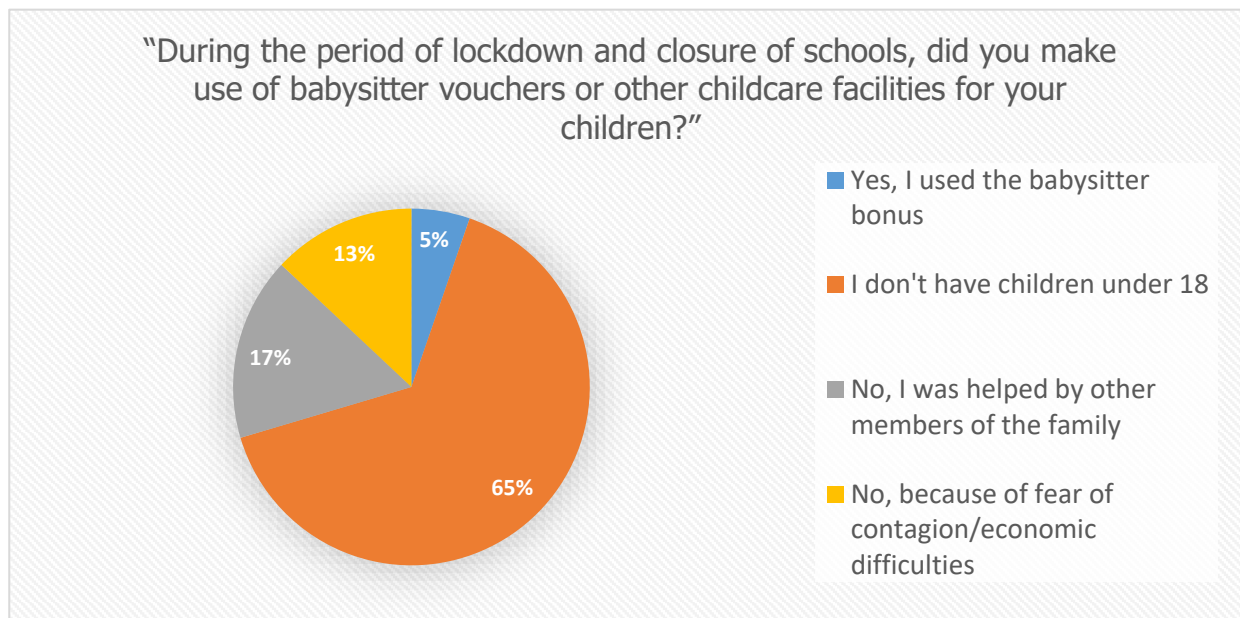


Table 12.

To those who answered “*No, because of economic difficulties or fear of contagion*” (13%) to Question 14, it was asked to explain whether the impossibility to receive childcare’s support during the lockdown period, either for economic or health reasons, somehow impacted their working performance. Actually, only thirty-six people were entitled to answer to Question 15, due to the fact that only 13% of the total respondents chose the last option in answering to Question 14 and the results are quite controversial. In fact, as shown by Table 13 below, there was not a unified answer among respondents, considering that 22.2% of them did not consider the unavailability of childcare support during the pandemic – due to economic difficulties or fear of contagion - to considerably impact their working activity, while 16.7% of respondents were of the opposite opinion, valued their experience 8 out of 10. Without doubt, according to these results, it emerges, on the one hand, that some women were more penalized than others, with different results according to their age, whether or not they have minority children – and could access to some kind of support – and depending on the degree of flexibility of their employment contract. On the other hand, it seems that the majority of respondents with minority children managed to take care of them despite the closure of schools or their working responsibilities. Actually, in many cases, women are obliged to make a choice between remaining in the labor market or being engaged in housework and children’s care, and, according to recent data, about 65% of women in Italy, between 25 and 49 years old with children under 5 could not work,

while 73.2% of women have part-time occupations, but 60.4% of them do not choose this option voluntarily<sup>335</sup>. Therefore, the COVID-19 emergency has only strengthened existing patterns in terms of female employment and the necessity to implement effective measures to support them, especially when they have minority children.

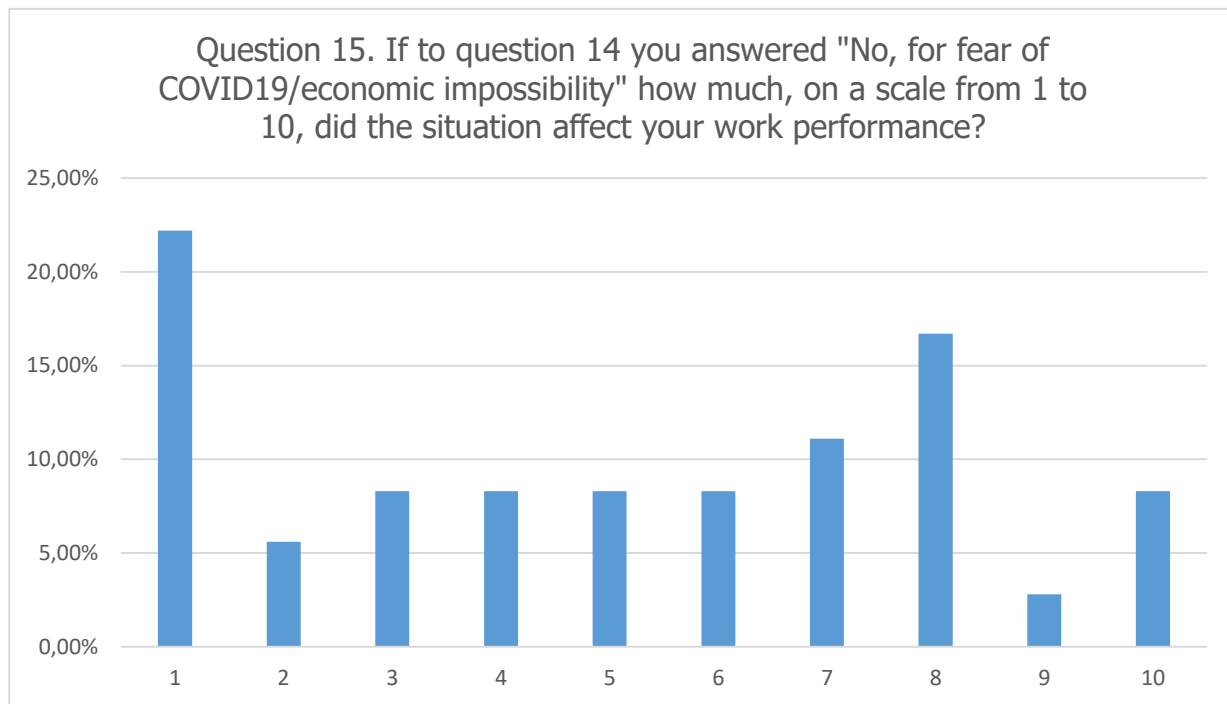


Table 13.

### ***Conclusion***

The aim of the present survey was to provide concrete and up-to-date data about how Italian women are living the current situation caused by the COVID-19 pandemic, not only in terms of employment, but also considering whether the emergency situation has penalized them as working mothers. Overall, contrarily to what I initially expected, it has emerged a general positive opinion among women towards *smart* working solutions. Moreover, according to results, they have been well able of optimally adapting – despite the initial difficulties - to new working modalities and alternative working hours, trying to organize employment responsibilities with family necessities. However, it is evident that the closure of schools - for those having minority children -, on the one hand, and the changes regarding the modalities of performing their job, on the other, have strengthened the necessity to reach a new family-work equilibrium. As abovementioned, the Italian government has adopted

<sup>335</sup> *Donne e lavoro, l'impatto del Covid e il futuro dell'occupazione femminile* (2020). Corriere.it

several measures in order to give financial support to workers and, specifically, childcare benefits to families in order to face the emergency situation, but only time will demonstrate whether it has been enough. Without doubt, the COVID-19 pandemic and its related consequences have once again stressed the necessity for the government's deep engagement towards gender equality issues. Recently, the Italian Government presented the National Recovery and Resilience Plan for the expenditure of the 209 billion euros destined for Italy in the context of the Next Generation EU, and around 4.2 billion euros are supposed to be invested in gender equality issues<sup>336</sup>. In fact, the still low women's employment rate in Italy (around 50.1% in 2019) in comparison to men's and other European countries, emphasize the urgent necessity to broadly intervene to reduce consistent inequalities that prevent women's empowerment and inclusiveness<sup>337</sup>.

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<sup>336</sup> G. M. Ferraresi, *Next Generation EU: parliamo di parità di genere*. Available at: [Geopolitica.info](http://Geopolitica.info) (2021).

<sup>337</sup> *Recovery Fund, la bozza del Piano nazionale di ripresa e resilienza (Pnrr)*. Available at: [Corriere.it](http://Corriere.it) (2020).

## Summary

Twenty-five years after the adoption of the Beijing Platform for Action – which affirmed for the first time the principle of equal participation of men and women in the political sphere<sup>338</sup> - the year 2020 was intended to produce great advancements in the context of gender equality issues<sup>339</sup>. However, gender inequalities are still widely present worldwide and the limited improvements made in recent decades have been even worsened by the COVID-19 pandemic, which has slowed down the process and posed the risk of an unprecedented and diffused recession, exposing the most vulnerable categories, among which women<sup>340</sup>.

With the advent of modern states, there have been several attempts to recognize the same rights and opportunities to both women and men, with the objective of render them equal in front of the law as human beings. However, the fulfillment of concrete structural changes and the full guarantee of gender equality seems to be possible only with the development of adequate and efficient policies at the governmental level, able to dismantle the traditional gender-based division of roles as well as persistent stereotypes, deeply entrenched within the society<sup>341</sup>. Without doubt, the process of globalization and the increasing interdependence of markets have underscored the importance of women's participation in employment for the economic development and well-being of a country, but there is still a lot of work to do.

The objective of the present thesis was to conduct a comparative analysis between the US, Scandinavian countries and Italy in the context of gender equality in the workplace, with a particular focus on the impact of the COVID-19 pandemic, in order to demonstrate the still considerable low levels of both gender equality and women's employment in several countries around the world and the correlation between efficient gender-related and family policies with the increasing rate of equality, as in the case of Scandinavian countries. Specifically, the discussion was concentrated upon two main variables, respectively women's discrimination in the workplace and the necessity to achieve an equilibrium between work and private life, with particular attention to *smart working* solutions, with the aim to identify the main differences between different models of welfare states in approaching gender equality issues.

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<sup>338</sup> E. L. Larson, *United Nations Fourth World Conference on Women: Action for Equality, Development, and Peace*. Beijing, China. *Emory Int'l L. Rev.*, 10, 695 (1995), p. 696.

<sup>339</sup> UN Women, *Policy Brief: The Impact of COVID-19 on Women* (2020).

<sup>340</sup> UN Women, *Policy Brief: The Impact of COVID-19 on Women* (2020).

<sup>341</sup> M. L. Krook & P. Norris, *Beyond quotas: Strategies to promote gender equality in elected office*. *Political Studies*, 62(1), 2-20 (2014), p. 5.

## Chapter 1

In the first chapter, it was considered necessary to provide some basic definitions in the context of gender equality - understood as a constitutional guarantee -, highlighting the importance of each country's constitutional set-up of in defining the main rights and duties guaranteed to both women and men and providing the basis for their concrete implementation. At this regard, constitutional language and interpretation are considered to play a significant role, due to the fact that, despite the progressive promotion of extensive equality within the framework of modern constitutions, the language used - often masculine - tends to refer to men, albeit unintentionally, rather than assuming a general and neutral connotation (Irving, 2008). However, within the analysis of the notion of equality, it would be necessary to make a distinction between *formal* and *substantial* equality, considering that the former finds constitutional expression in the provision of the same rights and opportunities to both sexes, while the latter recognizes that formal equality may produce unequal results<sup>342</sup>. These controversial considerations may be overcome by the “separate but equal” doctrine, which acknowledges and gives value to the differences, but also similarities, between women and men, while assuming that they do not deserve a different treatment<sup>343</sup>.

The full achievement of gender equality at the political level, especially in terms of participation in public office, is one of the main objectives of several states and international organisations around the world. In this regard, the introduction of gender quotas - although widely criticized for violating the principle of merit - represent an explicit attempt to compensate for the structural or direct forms of discrimination against women deriving from the constitutional legal framework<sup>344</sup>. However, the analysis shows that quotas alone are not sufficient to achieve full gender equality in the political sphere, but must be supported by other instruments aimed at overcoming institutional and ideological barriers.

Subsequently, it was explored the issue of gender discrimination in the workplace, in order to analyse the close correlation between constitutional rights and the need for their correct implementation, also in the field of employment. In fact, gender equality should be considered as a *multidimensional* context, including not only the political sphere, but also the economic and social ones<sup>345</sup>. At this

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<sup>342</sup> Sapiano and B. Baines, *Feminist Curiosity about International Constitutional Law and Global Constitutionalism*. Journal of the Oxford Centre for Socio-Legal Studies (2019), p. 1.

<sup>343</sup> B. Baines and R. Rubio- Marin, Introduction: Toward a feminist constitutional agenda. *The Gender of Constitutional Jurisprudence*. Cambridge University Press (2004), p. 13.

<sup>344</sup> D. Dahlerup, *Electoral gender quotas: Between equality of opportunity and equality of result*. *Representation*, 43(2), 73-92 (2007), pp. 73, 83.

<sup>345</sup> A. Löfström, *Gender equality, economic growth and employment*. Swedish Ministry of Integration and Gender Equality (2009).

regard, it was interesting to refer to the relationship between women's empowerment and economic development, two directly and unequivocally related variables, in order to provide concrete evidence about the fundamental role of women in the development and economic progress of a country<sup>346</sup>, which should be supported by policies aimed at their full employment, without overcoming their responsibilities as mothers. In fact, the absence or the discriminatory nature of existing policies on parental leave, sexual harassment in the workplace and so on, represent the most significant obstacle to the increased participation of women in employment as well as in other areas of the society<sup>347</sup>. Therefore, there is a clear need to promote policies aimed at the complete elimination of all forms of discrimination and stereotypes - to be applied also and above all to the working sphere -, and to guarantee the full enjoyment of the principle of equality.

## Chapter 2

The first chapter provided the basis for a more in-depth analysis of both the European legal framework and other international instruments in the context of gender equality, with particular attention to the effects of the COVID-19 pandemic on gender inequalities in Europe and in the rest of the world.

The European Union has broadly underlined its commitment towards gender equality issues since the adoption of the Treaty of Rome in 1957 – which included workers' rights and human rights' guarantees<sup>348</sup> - providing a comprehensive legal framework to create a common and unified system of protection for women among Member States. Since the 1990s, the implementation of a more flexible and elastic approach, recognizing the direct correlation between economic development and employment legislation, led to the adoption of the *European Employment Strategy*, in order to re-organize member states' social and employment policies and achieve full employment at the EU's level<sup>349</sup>. Moreover, some years later, with the adoption of the Treaty of Lisbon, gender equality was expressly recognized among the fundamental principles of the EU, demonstrating its great engagement towards the prevention of any form of gender discrimination in a comprehensive manner<sup>350</sup>. Nevertheless, gender inequalities are still widespread at the European level and represent a significant limit to achieving substantial results in the field of employment. The European

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<sup>346</sup> S. Chant & C. Sweetman, *Fixing women or fixing the world? 'Smart economics', efficiency approaches, and gender equality in development* (2012), p. 518.

<sup>347</sup> N. Kabeer and L. Natali, *Gender Equality and Economic Growth: Is there a Win-Win?*. IDS Working Paper, Volume 2013, No 417 (2013), pp. 32-33.

<sup>348</sup> E. F. Defeys, *The Treaty of Amsterdam: the next step towards gender equality?* Hein Online (1999), p. 2.

<sup>349</sup> J. C. Barbier, *Changes in political discourse from the Lisbon Strategy to Europe 2020: tracing the fate of 'social policy'* (2011), p. 14.

<sup>350</sup> A. Ciancio, *Parità di genere e partecipazione politica nell'Unione europea. Profili generali* (2016). *Rivista N*, 1(2016), p. 4.

Commission recently adopted the 2020-2025 Gender Equality Strategy<sup>351</sup>, with the primary concern to eliminate parental inequalities in childcare and housework, prohibit all forms of discrimination at work, sexual harassment and so on. However, with the spread of the COVID-19 pandemic and the advent of new and imminent challenges, threatening the fragile achievements of recent decades, the EU has progressively adopted several emergency policies - including the latest Europe 2020 strategy - in order to support European states, which have been seriously affected by the sanitarian crisis, and to prevent a huge recession, not only in economic terms, but also from the social and political point of views. In fact, women are being disproportionately affected by the crisis, subject to greater inequalities and disadvantages than men<sup>352</sup>.

Worldwide, since the end of the First World War, the international community has often addressed the issue of gender equality and the need to promote appropriate international instruments for the inclusion of women. For example, women's rights and the guarantee of freedom, equality and safety in the workplace are among the main principles of the International Labour Organization (ILO) and great efforts have been made in this regard since its creation in 1919<sup>353</sup>. The United Nations have constantly promoted gender equality as one of the guiding principles of its action, with the purpose of combining different traditions, cultures and constitutional framework in one common system of women's protection. One of the main instruments adopted in this context is represented by the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), adopted in 1979 by the UN General Assembly, with the aim to set specific international standards entirely dedicated to women<sup>354</sup>. Gender equality was also included within the Sustainable Development Goals adopted in 2015 (Goal no. 5) and part of Agenda 2030<sup>355</sup>. Additionally, since 2020, the G20 declared its complete engagement towards women's economic participation and social protection, in order to ensure that gender discussions are integrated within G20 commitments and policies. During the recent meeting of the World Economic Forum held in Davos in 2020, it emerged the persistence of significant wage gaps and considerable inequalities in terms of employment opportunities between men and women, stressing the need to strengthen the representation of women both at political level

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<sup>351</sup> Z. Blaskó, E. Papadimitriou & A. R. Manca, *How will the COVID-19 crisis affect existing gender divides in Europe* (2020), Luxembourg: European Union, p. 4.

<sup>352</sup> Parlamento europeo, *Improving gender equality during and after the COVID-19 crisis* (2021). Available at: europa.eu

<sup>353</sup> *ABC of Women Workers' Rights and Gender Equality*, ILO (2007), pp. 3-5.

<sup>354</sup> M. Plattner, *The Status of Women Under International Human Rights Law and the 1995 UN World Conference on Women*. Beijing, China (1995), pp. 1251-1255.

<sup>355</sup> G. Koehler, *Tapping the Sustainable Development Goals for progressive gender equity and equality policy? Gender & Development*, 24(1), 53-68 (2016), pp. 54-58.

and in various categories of jobs<sup>356</sup>. However, despite the progress made in recent decades, several obstacles still prevent the achievement of effective progress in the context of gender equality in many countries around the world and women continue to be victims of numerous forms of discrimination. Moreover, the persistent lack of a common view among member states, as in the case of both the European Union and the United Nations and other international organizations, provides an incomplete system of guarantees and protection for women, rendering them disadvantaged in many spheres of the society.

### Chapter 3

In the third chapter, it was then analysed the evolution of gender equality and family legislation within the Italian legal system, from the First World War until today, making reference also to the progressive adoption of parental leave policies and family benefits. At this regard, it was interesting to explore the role played by the Catholic Church and the related traditional view of the family – based on the division of roles between men and women in terms of employment and childcare (Velluti, 2008) -, over the drafting of the Italian Constitution and on the inclusion or not of family rights. In the end, in the final version of the Constitution it was recognized the principle of equal opportunities to both women and men (Art. 3) and Title II was entirely devoted to family and social provisions recognizing family as a natural form of society based on marriage (Art. 29)<sup>357</sup>. However, the fact that women obtained constitutional protection primarily as mothers inevitably represented an obstacle for their access to the labour market.

Since the entry into force of the Constitution, various efforts have been made to ensure equal opportunities for both sexes and to protect women, also as workers, thus requiring appropriate forms of protection to balance their participation in the world of work and family needs. For instance, in 2006 it was adopted the Code for Equal Opportunities (L. decree no. 198/2006), which provided a broad definition about the notions of *direct* and *indirect* discrimination and was intended to guarantee equal opportunities for women and men also in the context of family<sup>358</sup>. Even though the regulation of employment and family relations has been broadly addressed within the Italian legal system since the adoption of the Constitution, the traditional idea of family is still largely diffused, influencing the gender-based division of roles within the family itself and the still fragmented and incomplete policies

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<sup>356</sup> V. Mancini, *Smart working e gender gap*. Rome Business School Research Center (2020, p. 21.

<sup>357</sup> G. Pino & A. Schiavello (2015) *Le discriminazioni di genere nel diritto italiano*, pp. 88-90.

<sup>358</sup> A. Genna, *Alcune considerazioni sul principio di pari opportunità*. Norma quotidiano di informazione giuridica[online] (2016), p. 26, 34-35.



in terms of employment and the reconciliation between work and family responsibilities<sup>359</sup>. As a matter of fact, today Italy is still characterized by low levels of women's employment – about 50% in 2019 in comparison to 68% for men (ISTAT, 2019) - also due to the lack of consistent policies aimed at guaranteeing work-family balance and the persistence of asymmetries in the distribution of childcare benefits, emphasizing the growing need for new employment dynamics to ensure greater flexibility in employment. Without doubt, the progressive "flexibilization" of work, started with the adoption of Law no. 81/2017, has partially contributed to improving the situation, with the aim to increase women's working productivity and, simultaneously, facilitate their engagement in housework and childcare activities<sup>360</sup>. However, there are still considerable gender gaps between men and women, amplified by the COVID-19 pandemic. In fact, the sanitarian crisis has imposed the adoption of alternative working methods – with the derogation of Law no. 81/2017 in order to apply extensively forms of flexible work<sup>361</sup> -, posing new challenges both in terms of women's employment and the achievement of the above-mentioned balance between private life and work. In general, women have been more involved in forms of remote work (16.9%) than men (12.8%) (Corriere.it, 2021), thus more impacted by the situation. Indeed, according to ISTAT data, in December 2020, the number of women employed decreased by 99% and female employment was reduced by 3.2% compared to the previous month, while male employment suffered only of a 1% reduction. These assumptions have been partially confirmed by the questionnaire I realized (Appendix), addressed exclusively to women between 18 and over 65 years, and carried out in order to demonstrate the extent to which women were penalized during the pandemic, both in terms of employment and family responsibilities. In fact, according to the results obtained, a considerable percentage of women were significantly affected by the crisis caused by COVID-19, often forced to increase weekly hours devoted to housework and to facing some difficulties in bringing up their children.

#### Chapter 4

Finally, the last chapter was focused on a comparative analysis between the United States and Scandinavian countries, with particular reference to Norway, chosen as paradigmatic cases not only because they belong to different models of state - that is, the *liberal* and the *social democratic* ones - but also considering the different history and culture that characterize them, underpinning the adoption of different approaches towards gender equality issues. In particular, while the United States are more inclined towards the adoption of residual forms of social protection, placing emphasis on

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<sup>359</sup> C. Saraceno, *Mutamenti della famiglia e politiche sociali in Italia*. Il Mulino (2003), p. 14.

<sup>360</sup> Legge 22 Maggio 2017, n. 81. Gazzetta ufficiale della Repubblica Italiana, art. 18-24.

<sup>361</sup> M. Russo, *Emergenza Covid-19 – Speciale n. 1*, Giustiziacivile.com (2020), pp. 56-58.

the market as the main instrument of employment regulation<sup>362</sup>, Scandinavian countries - often referred to as a *public-family model* - pursue the principle of universalism of rights, paying special attention to the guarantee of social and familiar rights. As a result, whereas in the United States women's employment seems to be not adequately supported by family leave or childcare policies, European Nordic countries are constantly encouraging women's participation in the labour market, giving them the opportunity to preserve their job even in the case of maternity, also providing for extensive childcare benefits. Indeed, Scandinavian countries are at the top of several European and global ranks in terms of equality, with high levels of female employment and fertility<sup>363</sup>. Certainly, the so-called "*gendered*" distribution of powers (Irving, 2008) in federal states plays a significant role in the definition of equality and maternity policies in the United States, contributing to higher levels of inequality. On the contrary, the case of Italy is considered to represent a "familist" model of welfare state, based on a gender-based division of roles within the family – which inevitably is poured out at others levels of society - but mainly focused on public expenditure on pensions rather than on maternity and childcare services<sup>364</sup>. Although Italy and the United States may appear similar considering the limited presence of favorable policies for women and childcare services, the distinction between the two is actually marked in terms of maternity leave provisions. In fact, on the one hand, Italy guarantees a relatively long period of paid maternity leave, even better paid than in other countries, while, on the other hand, the United States do not provide any form of paid parental leave, except for some specific circumstances. However, what favors Scandinavian countries in comparison to Italy is the greater predisposition towards investments in childcare and the achievement of a work-life balance, creating a more favorable environment especially for women.

Inevitably, also the reaction of the United States and Nordic European countries to the COVID-19 pandemic is reasonably different, not only in terms of health responses, but also considering the economic and social emergency policies adopted to support citizens during the crisis. Actually, both European countries – including Scandinavian ones - and the United States have introduced certain forms of subsidies or economic compensation schemes to meet the immediate needs of workers<sup>365</sup> and to reduce the pressure on employed parents following the closure of schools during the lock down period. However, the pandemic has reinforced existing fragilities of some states, while emphasizing the strengths of others. For instance, on the one hand, the crisis has consolidated already existing

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<sup>362</sup> A. Parma, *Donne tra lavoro e maternità: chi rimane occupata* (2012), p. 82, 85.

<sup>363</sup> *Ibidem*.

<sup>364</sup> M. Migliavacca and M. Naldini, *Famiglia e Lavoro in Australia, Stati Uniti, Italia e Giappone: sistemi di welfare e di genere a confronto*, pp. 1-2.

<sup>365</sup> ILO, Policy Brief, 2020, Available at ilo.org.

weaknesses of the US public health system, as well as inequalities within society, stressing the need for a unified federal response<sup>366</sup>; on the other hand, it has evidenced the remarkable ability of Scandinavian countries to react in a more effective way, thanks also to the already elevated level of economic development and the well-functioning healthcare system. At this regard, some studies have shown a positive correlation between the level of economic inequalities and the number of deaths recorded during the COVID-19 pandemic. In addition, countries led by women, such as Norway, have shown a greater predisposition to address health and equality issues, giving priority to social long-term policies rather than short-term economic measures, demonstrating greater ability to react immediately to the crisis, compared to male-led countries, such as Italy and the United States<sup>367</sup>.

In conclusion, the COVID-19 pandemic has undoubtedly reinforced existing inequalities, stressing the need to promote greater integration and protection of women, especially in employment, and to adopt appropriate social and family-related policies in order to support women's commitment to both work and family responsibilities. Indeed, women have been more exposed to the negative effects of the crisis, both because they are significantly employed in the healthcare or services' sectors - therefore more exposed to contagion - and because they often have part-time or temporary employment contracts, normally less protected and less stable, especially in times of crisis<sup>368</sup>. In addition, the analysis has shown that the emergency situation - involving, inter alia, the closure of schools and remote working arrangements - has even more emphasized the necessity to strengthen the participation of both parents in domestic activities and childcare duties, through the introduction of more favorable social policies, also in terms of women's employment.

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<sup>366</sup> R. L. Haffajee & M. M. Mello, *Thinking globally, acting locally—The US response to COVID-19*. *New England Journal of Medicine*, 382(22), e75 (2020).

<sup>367</sup> L. Coscieme, L. Fioramonti, L.F. Mortensen et al., *Women in power: female leadership and public health outcomes during the COVID-19 pandemic*. *MedRxiv* (2020), pp. 10-11, 14-16.

<sup>368</sup> L. L. Carli, *Women, Gender equality and COVID-19*. *Gender in Management: An International Journal* (2020), pp. 1-2.