How laws and policies shape generational interdependence in families

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Background

In the last decade of the 20th century, there was extensive discussion of welfare regimes, especially debates triggered by Esping-Anderson’s typology presented in 1990. Some of the strongest criticism of his perspective came from feminist scholars (e.g., Orloff, 1993). A key point in the criticism was a neglect of women’s unpaid work. Since then, a number of researchers have presented extensive classification of welfare regimes, many of them concentrating on care for the young and the old (e.g., Anttonen & Sipilä, 1996; Bettio & Plantenga, 2004; Korpi, 2000; Leitner, 2003; Saraceno & Keck, 2010). Rather than focus on welfare regimes, I examine how specific laws and policies shape generational interdependence in families. “Generational interdependence” refers to the emotional, practical, financial, moral reliance on and responsibility for older and younger family members. My focus is on the EU-28 countries, Norway, Switzerland, the United States and Canada. First, I consider legal obligations to provide financial support or care to family members, policies aimed to support families in keeping up their financial and caring responsibilities (cash benefits, (paid) leaves, and care services), and “positive” generational policies aiming to reduce inequality by explicit intervention (e.g. daddy quotas). Second, questioning the primacy of family members in legal arrangements (e.g., medical decisions, care, inheritance, taxation), I consider policies and those with no or limited family ties: childless older adults. Third, I consider whether intergenerational policies shape inequalities
between men and women: roles limited to one gender (e.g., care leaves), and gender differences in credits for family role engagement (e.g., care credits).

2 Webs of Interdependent Lives: Micro and Macro Perspectives

2.1 Two Faces of Interdependence

When Elder (1979) introduced the concept of interdependence in lives, he focused on family groups: individual lives are influenced by what happens to other family members, whose circumstances are considered when making life course decisions. Elder, Johnson, & Crosnoe (2004) give the following description: “Lives are lived interdependently and socio-historical influences are expressed through this network of shared relationships” (p. 13). Family historians (Hareven 1982; Modell, 1989) argue that with the emergence of the institutionalized life course, lives became less contingent on conditions in the family realm. In a home-based economy, the production and reproduction of the household took precedence over the interests of its members. The transition to a wage labor economy, as well as new educational opportunities, set individuals free from the bonds of the family of origin.

Buchmann (1989) speaks of Freisetzung, a liberation, giving individuals (especially young people) more opportunity to build their own adult lives. The liberation also brings uncertainties, as Beck (1992) has argued; when individuals are the “architects of their own lives,” they run the risk of being left with a sense of personal failure (see also Furlong & Cartmel, 1997).

It is interesting to note that several of the authors cited above seem to take a somewhat negative view of interdependence. Clearly, it is a multi-faceted phenomenon, in that it represents rights, support, continuity and protection against risks, as well as obligations, vulnerabilities related to events and resources of others, and transitions beyond a person’s control. Anthropologist David Plath illustrated both faces of interdependence. In an analysis of a Japanese novel, he showed how a young woman had her life “on hold” until her older
sister had made the transition into marriage (Plath, 1980). Plath also wrote of how we need a convoy (Kahn & Antonucci, 1980) of consociates (Schütz, 1967), who can serve as co-biographers (Ferrarotti, 1981).

2.2 Interdependence as a Policy Issue

Europeans often find it paradoxical that the US—quite possibly the most individualized country in the world—offers many examples of the power of family interdependence. Part of this power stems from the lack of state mechanisms for risk reduction. In the absence of public safety nets, family members become highly dependent on one another in the event of divorce, unemployment, increasing frailty, and so forth.

In all developed societies, the caring and financial responsibilities for young and old family members are shared between families and the state (Kohli, Albertini, & Künemund, 2010), but countries differ greatly in their understanding of “proper” intergenerational family relations (Viazzo, 2010). Laws define rights and duties of family members towards each other, while policies (or their absence) reward or discourage particular family practices (Grandits, 2010; Leira, 2002; Saraceno, 2010). In many European societies, laws create or assume interdependence among lives, including legal stipulations of age and duration requirements across family relations.

Family responsibility laws define clear rights and duties across and within generations. Policies and institutional arrangements may also block interdependence, as for example when grandparents are not granted the right to raise grandchildren when parents cannot provide adequate care, or when parents have court orders prohibiting them from visiting their children after divorce.

How interdependence is shaped on a macro level has not been systematically examined, but in many modern societies, and in many ways, laws and policies create contingent lives. Esping-Andersen (1997) states that lives and relationships must be seen
within a matrix of life-course policies: services, transfers to the old, care for children, support of parenting. In other words, I treat interdependence as a policy issue, with social psychological consequences. Can one find explicit policy efforts to shape interdependence by regulating and structuring marriage and parenthood, or intergenerational ties? To what extent do legal frameworks assume, create, and reinforce interdependence among lives? Under what circumstances does legal regulation create continuity and security versus discontinuity and risk for individuals whose lives are interconnected? Is A’s risk B’s security?

2.3 Examples of Laws and Policies Structuring Interdependence

Legal obligations to provide financial support or care to family members can be viewed as mandated interdependence. A power of attorney to act on behalf of an older person deemed legally unfit to make independent decisions, or having to accept the authority of parents and guardians, are other examples of mandated interdependence. European nations vary widely regarding the range of family members included in civil laws regulating maintenance responsibilities (Saraceno & Keck, 2008). The Mediterranean countries have the most extensive regulations. In Italy, for example, grandparents, siblings, aunts and uncles are legally obliged to financially support children if their parents are not able to support them. Many Central European countries (e.g., Austria, Latvia) legally oblige grandparents to provide financial support. Western and Northern European countries (e.g., Sweden, the Netherlands, the United Kingdom) typically do not legally oblige family members to support children if their parents cannot provide for them. In a number of countries, adult offspring are under legal obligations to financially support parents. In Italy such rules also hold for

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1 See the Multilinks Database on intergenerational Policy Indicators for details. http://multilinks-database.wzb.eu/
grandchildren, as well as for sons-in-law and daughters-in-law, but only if they are legally married (Saraceno & Keck, 2008). The countries that have no legal obligations for adult children to financially support their parents tend be in in Northern and Western Europe, but there are exceptions (Belgium, the Netherlands, France, and Germany). The countries that legally oblige children to provide for their parents tend to be in Southern, Central and Eastern Europe, but again, there are exceptions to this pattern (Hungary, Estonia, Bulgaria, and the Czech Republic).

Bordone, Arpino and Aassve (2012) empirically illustrate how policy arrangements structure generational interdependence across three generations. Combining data from the Survey of Health and Retirement in Europe (SHARE) with data from the Multilinks Database on Intergenerational Policy Indicators, they examined the likelihood that grandparents care for the children of an employed daughter on a daily basis. Findings show that grandparents are most likely to be daily caregivers in countries where public childcare services and parental leaves are least generous (Italy, Greece, Spain, and Poland). They are least likely to care for grandchildren on a daily basis in countries that score the best in terms of childcare services (e.g., Belgium), parental leave (e.g., the Czech Republic), or both types of arrangements (e.g., Denmark). Tobío (2007) argues that grandparental care in Southern European countries is part of an effort to improve the life chances of the middle generation. Paradoxically, she notes, Spanish grandmothers assume an old-fashioned role to enable their daughters to adopt modern gender roles. Grandparental care in Southern Europe is a clear example of what Leisering (2004) would call “negative” life course policy shaping interdependence between family generations.

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2 Ibid
An example of what Leisering would label “positive” life course policy, aiming to shape the life course by explicit intervention, can be found in parental leave policies, especially leaves for fathers. Here, the Nordic countries were pioneers. In line with Leisering’s view, Swedish sociologist Therborn (1989) has argued that the Nordic welfare state is based on the assumption that policies can indeed lead to personal change, e.g. create caring fathers and egalitarian partners! Iceland, Norway, and Sweden and, most recently, Germany and Portugal (Moss, 2014) have introduced a “daddy quota”: weeks of parental leave exclusively reserved for fathers. Leira (2000) highlighted the importance of non-transferable (“use or lose”) leave entitlements for men, describing them as “fatherhood by gentle force”. The expanding literature on the gendered consequences of leave designs shows increases in men’s use of parental leave with the introduction of such non-transferable “daddy days” (Hegewisch & Gornick, 2011).

Has the special quota for fathers made men more caring? Kotsadam and Finseraas (2011) would say the answer to this question is “yes”. They treated the implementation of the daddy quota in Norway as a natural experiment, and compared parents with children born just after the reform to parents with children born just before the reform. Parents in the “treatment” group were less likely to have conflicts over the division of household tasks, and more likely to share them. In their study of leave policies in Sweden, Norway, the Netherlands, Canada, Germany, the United Kingdom, Finland and Italy, Boll and colleagues (2014) found increased levels of child involvement by the father after the introduction of daddy quota, particularly for highly educated men. Herlofson and Ugreninov (2014) report that Norwegian men are more involved in childcare after the introduction of the “daddy quota”, but not more involved in care for frail parents.Apparently, the policy reform does not make men generally more caring. Looking after children seems to result in such a depletion of men’s care resources that little is left for the older generation.
2.4 Intergenerational Care Regimes

Rather than focus on individual laws and policies, some scholars have attempted to create models of “care regimes”, including both care for the young and the old (e.g., Anttonen & Sipilä, 1996; Bettio & Plantenga, 2004; Daly & Lewis, 2000; Korpi, 2000; Leitner, 2003; Sainsbury, 1999). An attractive feature of these efforts to map intergenerational care regimes is that they overcome a “chopped up” view of families by considering multiple generations. A recent example is a model developed by Saraceno and Keck (2010), who examine how legal and policy frameworks affect the degree to which country-specific institutional frameworks impose reliance on family members and/or support individual autonomy/agency. The first pattern is familialism by default; situations where there are few or no publicly provided alternatives to family care and financial support. The second is supported familialism, where there are policies, usually in the form of financial transfers and leaves, which support families’ financial and caring responsibilities. The third is defamilialisation, where needs are partly addressed through public provision (services, income replacement). By identifying and measuring actual public provisions rather than using ideal types of welfare regimes, Saraceno and Keck capture the nuance that differentiates countries.

An important issue is whether policies involve payments for care, (paid) leaves, or the provision of care services (Javornik, 2014). When public support is offered in money rather than in kind, families can use it to buy help or to augment the family budget while providing care directly. This tradeoff might be different for families in different socioeconomic circumstances (cf. Gornick & Meyers, 2008; Leitner, 2003). The strategy of staying at home to provide care is more readily adopted by members of the working class (in practice: women). This reduces their ability to remain in the labor force and contributes to the likelihood of old-age poverty for themselves.
Cross-national comparisons reveal that the type of public provision offered has consequences for gender inequality. Using data from the Survey of Health, Ageing, and Retirement in Europe (SHARE), Schmid, Brandt, & Haberkern (2012) confirm findings from many studies that show that women are more likely to provide intensive care to aging parents than men. However, the “imbalance” in the proportions of men and women providing such care is higher when aging parents receive public support—in addition to the care received from adult children—in the form of cash for care payments than when they receive public services (e.g., home help and home nursing). Apparently, the public provision of support services helps to keep both men and women involved in caring for frail parents, whereas care payments are a greater incentive for women than for men. Abendroth and colleagues (2014) demonstrate the differential effect of cash benefits, paid leaves, and child care services on women’s employment. Using data from the European Community Household Panel (ECHP) they show that the motherhood occupational status “penalty” is lower in European countries with high expenditures on public childcare. Contrary to expectations, they did not find a higher “penalty” in countries with high spending on family cash benefits. The authors argue that paid leaves and public childcare prevent mothers from being sidelined at critical career junctures, whereas cash benefits seem to maneuver women into the “mommy track”. These two studies clearly demonstrate how policies (or their absence) shape interdependence within and across family generations.

3 Limited Vertical Ties: Policies and Childless Older Adults

What happens to the lives of individuals who do not fit the picture presented above—those with no or limited vertical family ties? An issue that is of particular current interest is rising childlessness rates among men. Some authors, on both sides of the Atlantic (e.g. Dykstra & Keizer, 2009; Eggebeen & Uhlenberg, 1985), are concerned about men’s social integration, support through interdependent relationships, and investment in their community, especially
in the second half of adulthood. North American social psychological research based on Erikson’s concept of generativity, i.e. investment in younger generations, indicates that the concern is warranted. McAdams and de St. Aubin (1992) found self-reported generativity to be associated with parenting for men but not for women. Compared to fathers, more childless men felt disconnected from their communities and were not involved in local organizations. A more recent study (McKeering & Pakenham, 2000) similarly found parental generativity (time invested in care activities and psychological involvement in parenting) more strongly related to societal generativity for men than for women. In rural parts of Europe, social services have difficulties organizing care for old childless men because they are severely isolated and often live in remote areas (e.g., Wenger, 2009).

The current scientific debate has centered on the role which kin (defined by biological or legal ties) plays in the provision of care and support for aging adults. The prolific literature has examined the flow of intergenerational exchanges between adult children and their parents (Cooney & Dykstra, 2013; Kalmijn, 2014). However, older adults can turn to different sources of support when in need, including non-kin (neighbors, friends) and professionals. Yet, the primacy of family members (and immediate family members in particular) as “self-evident” sources of support, is strongly reflected in legal provisions across national contexts. I will illustrate this point with a few key examples.

3.1 Primacy of family in policies

A number of Western countries feature statutory leave entitlements enabling care for a sick family member. The conditions for taking up the leave, its length, and potential financial remuneration vary tremendously across countries; in the United States, under the Family and Medical Leave Act of 1993, medium and large employers provide employees with 12 weeks unpaid leave for a seriously ill spouse or parent (for an international overview, see Moss, 2014). What all countries share, however, is that the person for whom the leave can be taken
has to be kin and in almost all contexts, either a parent or a spouse. This means that in countries like the United States no significant other is entitled to a care leave for a nonparent without a partner. This perception of “who acts as a caregiver” is also strongly reflected in a number of US initiatives aimed at recognizing and alleviating caregivers’ burden. For example, the “Social Security Caregiver Credit Act” which was introduced to the House of Representatives in 2014 suggests that financial remuneration is made available to “individuals… providing care to a dependent relative” (italics added; Congress, 2014).

Likewise, in the absence of an advance directive dictating the wishes of the individual, in certain states (e.g., California, New Jersey, Texas) physicians cannot consult anyone about the care preferences of their incapacitated patients besides people related by blood, adoption or marriage (American Bar Association, 2014). In a similar vein, the American Internal Revenue Service allows taxpayers to claim non-kin as dependent only if they share a residence yearlong (even if the potential dependent satisfies all other conditions and more than half of his/her yearly income is provided by the taxpayer in question; Internal Revenue Service, 2014). No such co-residence requirement exists for potential dependents related by blood or law.

These are only a few examples of the primacy assigned to kinship ties in the health care and long-term support policies. However, scientific research has highlighted the fact that in the absence of kin (or when these significant others are unwilling / unable to help), non-kin relations, such as close friends but also neighbors, can serve as crucial sources of emotional and practical support (Albertini & Mencarini, 2012). As mentioned before, childless individuals can adapt to being nonparents and invest significantly in strengthening their non-kin networks (Dykstra, 2006). Yet, as illustrated above, non-kin relations often lack the legal rights and the appropriate governmental support to advocate successfully for the needs and wishes of the childless.
3.2 Nonfamily assistance

Despite the lack of legal or financial support, non-kin often step in to help. Yet, it would be unwarranted to assume that the care needs of childless individuals can be met successfully by galvanizing nonfamily-based social networks. People can turn to different sources of assistance as they age – kin, non-kin, and professionals – and yet, the roles which these diverse support networks usually fulfill are rather distinct (Litwak & Szelenyi, 1969). Friends and neighbors tend to provide emotional support and help with certain practical tasks (e.g., performing small repairs around the house). Important to note here, however, is the fact that the friendship networks which nonparents might have, are likely to be highly age-homogeneous. In other words, even when friends are willing to help, their own advancing age might be inhibiting them from doing so. The more durable and intense bonds which (immediate) family members share are more conducive to the provision of the demanding, long-term care that is often needed eventually. Indeed, as health deteriorates and people begin to face physical limitations in carrying out their daily living activities, those without children can experience shortages in instrumental help (e.g., personal care, cleaning, transportation). It is at this point, that aging nonparents have few other options besides turning to professional help (institutional or home-based).

Of the financial costs associated with aging, long-term institutional care is by far the most costly and has the highest potential out-of-pocket expenses (Knickman & Snell, 2002). Having children has been shown to delay this entry into long-term residential care (Gaugler, Duval, Anderson, & Kane, 2007), which implies that nonparents might be more prolonged users of this expensive elderly care service. Nevertheless, it is important to note that it is disability and living alone, rather than simply not having children, which are by far the strongest predictors of institutional admission. Across national contexts, a sustained effort has been committed to ensuring that aging adults live independently for as long as possible. Care
from family members has been one of the options for delaying the entry into institutional care – an option not necessarily available to the childless. Yet, studies on the use of professional home help have rendered mixed findings when it comes to the differences between parents and nonparents.

Whereas some report that childless older adults are more likely than parents to rely on professional home care services (Larsson & Silverstein, 2004), others report no differences (Aykan, 2003), or, interestingly, a higher use of home services among parents (Blomgren, Martikainen, Martelin, & Koskinen, 2008). The inconsistency in findings might be attributable to variability in forms of home care, such as whether it is publicly provided or privately paid. Another possibility is that insufficient attention has been given to the opposing views on how childlessness and home help might be linked. The more readily cited perspective states that informal support deficits enhance formal service use among older nonparents. On the other hand, however, the childless could be less likely to use formal services because they lack relatives who serve as advocates on their behalf.

Governments have a vested interest in the effective functioning of “the” family (Goode, 2003) and have thus, implemented laws which define relationship arrangements and family members’ obligations towards one another. What I aimed to highlight here is that if the understanding of who should care for an older individual is restricted to kin (and adult children in particular), this negates the experiences of nonparents. These are individuals who, contrary to popular belief, display a great set of strengths but whose social networks might be unable to or are not assisted in providing support when the needs for care become particularly intense (Wenger, 2009).

Positive signs of change can be observed across national contexts. For example, a number of US states include a “close friend” in the list of potential medical proxies in the absence of an advance health care directive (e.g., Colorado, New York, Tennessee). In the
Netherlands, as of July 2015, individuals are entitled to a sick leave in order to provide care for a non-relative (yet, the taxation of inheritance left to non-kin has remained the same—substantially higher than when inherited by kin). These are important steps in recognizing that the definition of “the” family, as well as, how people construct their life trajectories, have changed dramatically in the past decades. It is crucial to consider to what extent the current legal arrangements are based on a somewhat outdated perception of what “the” family is.

4 How intergenerational policies shape inequalities between men and women

Although there is a massive literature on cultural constructions of gender, differential socialization and role engagements, there is limited knowledge of how societal laws and policies create different social landscapes and structural maps for family roles of men and women. In what follows I explore how gender is a foundation for assigning intergenerational rights and duties.

4.1 Gender Differences in Role Entry

Since it has been documented that women, across societies, are more likely to provide unpaid care than men, whereas men are more often gainfully employed, it is important to ask whether rights to care leaves are differentiated by gender. Among the OECD countries, Switzerland is the only one with a statutory maternity leave, but no leave for fathers (OECD Family Database, 2014). The US is the only OECD member that has no statutory entitlement to any kind of parental leave. Several countries (e.g., Austria, Croatia, Finland, France, Germany, Iceland, Italy, Norway, Portugal, Sweden) have introduced a “daddy quota” (a period of leave that is for the exclusive use by fathers on a use-it-or-lose-it basis), or a “father bonus” (a payment, tax break or additional time away from work) to encourage fathers to take parental leave (Moss, 2014). It is important to note that the design of leave polices differs considerably across countries in terms of length, level of wage replacement, the flexibility for taking leave,
and rules governing fathers’ access to leave and/or the distribution of leave between parents (Ray, Gornick, & Schmitt, 2010). In Iceland, Norway and Sweden, uptake of paternal leave is mandatory if the full paid parental leave is to be granted.

An expanding number of developed countries offer leave entitlements to care for a wider range of family members (Moss, 2014). Conditions for taking leave vary from relatively common sickness to critical illness or severe disability. Length, payment and other dimensions of leave also vary considerably. However, even though descriptions of the policies are gender neutral, using terms such as “employees” and “family members”, men are far less likely to make use of such leaves than are women, particularly if the leaves are unpaid (Moss, 2014).

4.2 Gender Differences in Credits for Role Engagement

Above, I focused on legislation structuring role entry. Gendered life courses also serve as the basis for receiving publicly funded benefits through duration requirements. Are there differences in duration “credits” for men’s and women’s family role engagement in terms of eligibility for unemployment benefits or pensions?

In many European countries, women may claim pension benefits as mothers and as family care providers. They receive credits in recognition of the unpaid work of child rearing and family care. Care credits, by acknowledging the time invested in childrearing and looking after dependent relatives, are not based on the norm of an uninterrupted work life until retirement. However care leaves are the only absences from work where fixed flat rates are sometimes applied (i.e. predetermined amount)—rather than the contributory social insurance principle (i.e. based on job history) that prevails in the more “male” social security arrangements of unemployment, health or accident insurance (Marin, 2010). Flat-rated benefits generally have advantages for less qualified and less paid women workers but are detrimental to skilled and well-remunerated women. The more strides women make in the
world of paid work, the greater the gaps between earnings-related and flat-rate pension credits will be. Countries that have residence-based minimum pensions (e.g., Iceland, the Netherlands and Norway) are favorable to women because they are not based on employment history (Marin, 2010). The guaranteed minimum pension is based on years of residence and requires no contributory payments or means-testing.

Care credits are a source of debate between “care feminists”, who call for greater recognition of women’s distinct contributions as caregivers and “employment feminists”, who feel that many women would benefit from stronger (not weaker) ties to paid work (Ray, Gornick, & Schmitt, 2010). The latter point to disincentives to work and reinforcement of traditional assumptions about gender roles, particularly when care credits are only awarded to women or only to men if women waive their rights (Expert Group on Gender Equality and Social Inclusion, Health and Long-Term Care Issues, 2011).

4.3 Gender-Bias in the Implementation of Policies

Taking the previously described laws and policies together, my conclusion is that there is a convergence between her and his rights and duties. Political pressure, leading to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), has undoubtedly fuelled this development. The CEDAW is an international treaty adopted in 1979 by the United Nations General Assembly. Described as an international bill of rights for women, it came into force in 1981 and has been ratified by 188 of the 193 UN member states. In its 30 articles, the Convention explicitly defines discrimination against women and sets up an agenda for national action to end such discrimination. The present overview has briefly touched upon differences between de jure and de facto practices (e.g., take-up of care leaves).

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Societies have not yet bridged the gap between legislation aimed at achieving gender equality and established patterns of everyday lives of men and women.

One issue requiring attention is gender-bias in the implementation of policies. For example, a recent Dutch study revealed that frail older women living with a partner were more likely to receive publicly funded home help than frail older men living with a partner—even though their circumstances were quite comparable (Schenk, Dykstra, Maas, & Van Gaalen, 2014). The authors suggest that the public servants processing the home help requests perceive older men as less able to provide care to their spouses. Another explanation is that the men more strongly feel they are entitled to public support because they perceive themselves as lacking the necessary caring skills. The gap between de jure and de facto practices represents a major challenge for social scientists with an interest in societal structuring of her and his family roles.

5 Conclusion

Today, it is very clear that if we want to understand contemporary structuring of intergenerational family relationships, we need to build on both macro- and micro perspectives. Silverstein and Giarusso (2011) sum it up nicely: “Micro-interactions in the family may be shaped by the political economies and cultures within which those interactions are embedded, specifically the way in which welfare production is allocated among state, market and family” (p. 39). In this paper I have emphasized the role of laws and policies in structuring interdependence among lives and the shaping of gendered lives. Cross-national comparisons reveal that the type of public provision offered has consequences for gender and socio-economic inequality. Cash for care payments more often strengthen a gendered division of tasks than care services (e.g., home help, day care).

Overall, there is gender convergence in the structuring of generational interdependence by laws and policies. Yet, one also observes strong contrasts between how men and women
actually live their lives. Levy, using a concept developed by E. Hughes, argues that men and women have different *master statuses*, locating them differently in the worlds of family and work (Levy, 2013a; 2013b, Krüger & Levy, 2001). His perspective reflects Linton’s (1942) and Parsons’ (1942) discussions of roles based on age and sex. The master status implies that participation in other roles may be developed only insofar that it does not interfere with the primary responsibility. Thus, men’s involvement in family tasks is secondary to breadwinner obligations, women’s employment is subsidiary to the requirements of their caring roles. Recently, researchers have shown that such potential role conflict is not limited to mothers of young children, but increasingly also to women in the next generation: grandmothers who struggle to maintain a work career as well as provide the care for grandchildren (Meyer, 2014).
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