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Feminist perspectives on multi-level governance

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Abstract. This chapter takes stock of existing research on gender and multi-level governance (MLG) structures, examining the ways in which MLG affects and is affected by women's movement organising, participation and representation. In doing so, it highlights the insights feminist research on the gendered character and impacts of institutional architecture provides into the questions of how women's movements and feminist actors can use MLG structures to effect change, as well as the ways in which institutions either facilitate or obstruct reform efforts. The chapter also looks at two key understudied questions. First, we argue that analyses of whether women are advantaged or disadvantaged by multilevel arrangements must pay attention to the mediating actors in MLG, particularly to political parties. Second, we contend that the impact of institutional architecture on actors navigating MLG, specifically women's movements and anti-gender movements, also deserves further examination. Lastly, the chapter points to new directions forward for feminist research on this topic.

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Introduction: Gender and multi-level governance

Studies of federalism or multi-level governance (MLG, henceforth) have very rarely taken into account issues of gender, while, at the same time, feminist political science has often ignored or underplayed the importance of territory and political architecture. Real-world developments have made these questions more pressing – as political decision-making has become more complex and diffuse, through processes of federalisation, decentralisation, and transnational regional integration. Yet efforts to build theories of gender and MLG have been hindered by the lack of a ‘common language’ due to the diversity of approaches that have addressed this question, such as the literature on federalism and institutional architectures (see for example Chappell, 2002; Haussman et al., 2010; Vickers et al., 2013), the literature on transnational or supranational governance (see for example Kantola, 2010; Abels and McRae, 2016) and the comparative literature on territorial politics (see for example Kenny and Verge 2013; Alonso 2018; Thomson 2019). The term MLG has also been used both in a general sense in the scholarly literature to address levels of governance beyond the nation-state, and in a specific sense associated with the European Union (Hooghe and Marks, 2001; [see also Part 4 of this Handbook](#)).

In this chapter, we focus on the broader understanding of MLG, using it as an umbrella term covering feminist scholarship that examines relationships within, below and above the state through a gender lens. This term describes the dispersion of decision-making across multiple territorial levels, as well as state and non-state actors, ranging from international governmental and non-governmental organizations to community groups and social movements. Therefore, the ‘multi-level’ dimension of the concept captures the increased vertical inter-dependence of actors at different territorial levels (upwards and downwards between tiers of government), while the move towards ‘governance’ encapsulates captures less hierarchical, and more horizontal (sideways) forms of policy-making and decision-making with a broader range of actors (Bache and Flinders, 2004; Hooghe and Marks, 2001; Sawyer and Vickers, 2010).

We begin the chapter by taking stock of the small but growing body of literature on the relationship between gender and MLG structures. Engaging with theories of governance that conceive of the state as a differentiated set of institutions and agencies with an open outcome regarding gender equality policy and women’s empowerment (Kantola, 2006), we evaluate the development of research on gender, territory and state architecture over time, focusing in particular on work on women, gender and federalism. We review existing findings as to how MLG arrangements affect and are affected by women’s movement organising, participation and representation (Vickers, 2020). In doing so, we highlight the insights of feminist research with regards to the gendered character and impacts of institutional architecture, which has shed new light on both how women’s movements and feminist actors can use MLG structures to effect change, but also on how institutions either facilitate or obstruct reform efforts (Chappell, 2002; Vickers, 2013a).

We then move on to consider two key questions that remain understudied in the gender and MLG field. First, we argue that analyses of whether women are advantaged or disadvantaged by multilevel arrangements must pay attention to the mediating actors in MLG, particularly to political parties. Second, we contend that the impact of institutional architecture on actors navigating MLG, specifically women's movements and anti-gender movements, also deserves further examination. We conclude by reflecting on the utility of gendered approaches to studying MLG in 'turbulent times', pointing to new directions forward for feminist research on this topic.

The relationship between gender and institutional architecture

As discussed in more detail in Chapters 1.2 and 1.3, feminist scholars conceive of the state as gendered. As Jill Vickers (2013a) argues, 'gender makes states', in that gender norms and stereotypes are embedded in policy-making – shaping the composition of structures, the unfolding of processes and the organisational culture of institutions. At the same time, 'states make gender' by regulating gender power relations on a daily basis through policies, laws, judicial rulings or spending decisions (Vickers, 2013a). Given that gender relations are historically dynamic and that the state's position in women's/gender politics is not fixed, the state is the focus of interest-group mobilisation (Connell, 1990). Indeed, early work on gender and MLG focused on whether federalism was a barrier to or an opportunity for women's equality-seeking strategies. Feminist and LGBTI studies explored the ways federalism may accord an advantageous political opportunity structure to transfer activism across institutional levels (federal and state arenas) and venues (executive, legislative and judicial) when blockage is faced in either arena (Banaszak, 1996; Bashevkin, 1998; Chappell, 2002).

Subsequent work turned to how federalism impacts women's politics, which Vickers (2011: 136) conceptualizes as involving 'descriptive representation, organizational patterns in movements and interest advocacy, and projects promoting substantive representation.' This includes both conventional politics and feminist activism (Vickers, 2010: 433), as well as gender equality policy in a variety of sectors such as protection of rights, service delivery, gender-based violence policy, economic empowerment or political participation (Forster, 2020). The so-called 'federal advantage' includes women's greater access to political institutions, since politics is 'closer to home' (Obiora and Toomey, 2010; Ortbals et al., 2012); the provision of multiple points of access for gender equality activists to forum shop; and the higher capacity to foster innovation through top-down, bottom-up or horizontal diffusion of learning processes and policy transfer (for a review, see, Forster, 2020).

However, scholars have also warned that these same features may pose various 'federal disadvantages' (Meier, 2014). On the one hand, the asymmetry in the provision of public services across sub-state units can potentially undermine the development of coordinated and integrated countrywide gender-equality policies, yielding an uneven delivery of services and a broad diversity of policies and laws on the same issue (Celis and Meier, 2011; Franceschet, 2011; Chappell and Curtin, 2013). On the other hand, conservative actors may exploit the existence of multiple

veto points with a view to obstructing or even rolling-back gender-equality progress (Hausman, 2005; Grace, 2011).

For this reason, most accounts have gradually come to adopt a 'conditional approach' (Gray, 2010). That is, the positive or negative impacts of federalism on gender equality policy depend on the characteristics of individual countries, and their effects 'vary between institutions, across institutional arenas, and policy or issue sectors, and with time and space' (Vickers, 2010: 419; see also Chappell, 2002). For instance, gender-equality policy innovation, policy transfer and race-to-the-top dynamics are more likely to be set in motion in either cooperative or competitive federations, than in dual federalism whereby the centre and the sub-state units hold different jurisdictions (Vickers, 2011: 136; see also Beyeler, 2014).

Dual federalism has been found to be potentially harmful for women's rights as the existing gendered division of powers leaves the competences of high import to women - such as the regulation of 'private life' (e.g. family law), education, health or welfare - at the hands of the sub-state units. In contrast, the powers associated with masculinity (e.g. defence or external affairs) tend to be found at the federal level (Irving, 2008: 69; Grace, 2011: 100). This may lead to legal pluralism regarding fundamental rights and crucial social programmes, yielding an unequal protection of women and an uneven access to resources across the country (; Mettler, 1998; Chappell, 2001; Irving, 2008), particularly when the two main tiers of government engage in a politics of blame avoidance (Grace, 2011: 101). Still, state capacity and political will may constrain the danger of legal pluralism in federal countries (Vickers, 2013b). Also, party federalism, as will be further discussed in the next section, crucially contributes to shaping gender outcomes in MLG systems (Lang and Sauer, 2013).

While the initial focus of much of the work on gender and state architecture has been on established federations, predominantly from the Global North, scholars have increasingly looked at federations in the Global South, such as Nigeria (Obiora and Toomey, 2010), India (Spary, 2020), Pakistan (Mufti, 2020), Brazil (Bohn, 2020) and Argentina (Lopreite, 2020). Recent work in the field has also started to look more systematically at intersectional power relationships, exploring how gender interacts with race, ethnicity, language, religion, sexual orientation and other structures of power, and demonstrating that the outcomes of particular MLG arrangements differ for majority and minority women (see for example Smith, 2010; Vickers et al., 2020)

The federal-unitary dichotomy has also given way to the inclusion of decentralised countries in the investigation of the relationship between gender and state architectures (Vickers et al., 2020). Indeed, sub-state units have more powers or autonomy (self-rule) in some so-called 'unitary' states than in some federations, albeit the cross-level decision-making capacity of sub-state units (shared-rule) tends to be larger in federations. This shift has led scholars to increasingly consider

federalism, decentralisation or devolution as ‘processes, not events’.¹ Analyses have thus become less static and paid attention to the territorial dynamics fostered by the downloading, uploading or offloading of power over time, and how these shape the opportunities to mobilise and to effect gender change (Banaszak et al., 2003; Kenny and Verge, 2013; Russell et al., 2002; Verge and Alonso, 2020).

In doing so, studies have left behind the ‘methodological nationalism’ (cf. Jeffrey and Schakel, 2013) that has imbued both feminist and mainstream political science, which have tended to focus on the nation-state as the main unit of analysis. They have also increasingly acknowledged that the ‘nation’ and the ‘state’ are not always territorially co-terminous, which has important implications for women and for gender equality. The saliency of territorial-based identities matters for gender politics (Sawer and Vickers, 2010; Vickers, 2011). For example, scholars have found that in polities with a higher saliency of the ethnoterritorial cleavage, gender-equality strategies are more difficult to organise due to the competition of the relevance of sex/gender with that of territory, yielding more fragmented progressive alignments and alliances (Vickers, 2011: 13; see also McAllister, 2001). Taking a multilevel approach also highlights that organised women’s movements do not only (or ideally) relate to unitary states (Vickers et al., 2020). For example, many regional women’s movements support territorial autonomy and even secession, as can be seen in nations like Catalonia, Quebec and Scotland (see for example Alonso, 2018).

This in turn, raises important questions about territorial differentiation of political community (and gendered citizenship) within the state. Indeed, some sub-state units have adopted more progressive positions regarding some gender equality policy domains than the centre, even where the national cleavage is prominent, as shown, for example by Quebec within Canada (Vickers, 2010), Scotland case within the United Kingdom (Mackay, 2010), or Catalonia and the Basque Country within Spain (Verge and Alonso, 2020). Processes of constitutional and institutional restructuring can provide the women’s movement the opportunity to push for gains in women’s descriptive representation, as well as to incorporate gender equality into wider political debates. Yet, new decentralised arrangements are also ‘nested’ within wider structures and historical legacies, which may constrain possibilities for change (cf. Mackay, 2014; see also Thomson, 2019). Work on gender, federalism and decentralisation in the Global South for example, highlights the extent to which patterns and effects of decentralisation are shaped by wider colonial and authoritarian legacies (Henders, 2020).

Last but not least, since changes in formal institutions do not necessarily lead to greater gender equality, feminist scholars have also looked at the impact of informal institutions. These include gendered or apparently gender-neutral political discourses (Grace, 2011); mechanisms of path dependence such as the historical legacies of federations, as discussed above (Smith, 2018; Vickers, 2010, 2011); prevailing norms about gender relations; or reinterpretations of the division of

¹ This phrase was memorably coined by the then Secretary of State for Wales Ron Davies (1998: 15) in the context of devolution in the United Kingdom. In a pamphlet published ahead of the first elections to the National Assembly for Wales, he explained: ‘Devolution is a process. It is not an event and neither is it a journey with a fixed end-point.’

powers that favour progressive outcomes – for example, the voiding of state family laws by the US Supreme Court on equal protection grounds (Banaszak and Weldon, 2011: 267). On the one hand, informal institutions may facilitate positive gender change, particularly when there is good fit and tight coupling between formal and informal institutional arrangements. For example, Mackay's (2014) assessment of the successes and limits of devolution in Scotland highlights the ways in which campaigners linked formal rule changes – e.g., the introduction of family-friendly working hours - with informal norms and discourses around care and 'new politics'. On the other hand, informal institutions may undermine formal institutions and processes (perhaps in the face of changing arrangements) or exist alongside formal arrangements as a parallel institution (see Helmke and Levitsky 2004). For example, Grace (2020) highlights the ways in which formal rules about who can participate in intergovernmental decision-making in Canada are shaped by informal norms of masculine leadership and discourses of territory, which limit possibilities for pursuing women's policy objectives. Likewise, executive federalism, characterised by lack of parliamentary oversight and intergovernmental decision-making behind closed doors, has been found by Sawyer (2014) to hamper the implementation of a participatory/democratic model of gender mainstreaming in Australia.

Gender and MLG: A research agenda

As outlined in the previous section, research on gender and MLG has developed and expanded into multiple directions: examining how MLG arrangements affect women's political participation and representation; how women's organizing and presence shapes MLG arrangements; and how MLG arrangements shape, and are shaped by, ideas about gender (Vickers, 2013a). New research has expanded these concerns by investigating a broader range of MLG arrangements and country case studies, and by incorporating the 'intersectionality imperative' to consider the interplay between gender and other structures of power (see Vickers et al 2020). Yet, there is still much that remains to be explored in this rapidly expanding field. Here, we focus on two key research agendas: the role of political parties in the operation of MLG and the ways in which (different groups of) actors navigating MLG arrangements are impacted by institutions.

Gender, political parties and MLG

Despite being the actors to whom modern democracies accord linkage, representative and governing functions, the role of political parties in the operation of MLG has been largely neglected. Yet, empirical examinations of how state architecture shapes women's politics needs to consider parties as independent, complex organizations in their own right that are themselves multi-layered actors (Kenny and Verge, 2013). 'Federal advantages' might only further gender equality policy if political parties use them to put forth a progressive agenda, for instance, through the work of women's policy agencies (Lang and Sauer, 2013). Scholars have found party politics to matter more for advancing gender equality and LGBTI policies at the central level rather than at the regional level, with these policies expanding with left-wing governments thanks to the leading role of party feminists and the alliance of the central-level women's policy agency with the feminist movement when the left is in power (Valiente, 2007).

Furthermore, analyses of the gendered implications of MLG should take into account that the party system is one of the crucial institutional variables in which state architecture is 'nested' (Erk and Swenden, 2010: 201). Therefore, 'vertical division of powers alone cannot explain variations in outcomes' in a particular women's rights policy, but they interact with party politics (Franceschet and Piscopo, 2013: 130). A small number of scholars have looked into how political party polarisation mediates gender outcomes, particularly doctrinal or morality policies such as sexual and reproductive rights and LGBTI rights. On the one hand, conservative groups often promote partisan conflict around doctrinal issues by resorting to negative states' rights discourses in dual federalism polities (Vickers, 2010: 426) or by polarising voters for partisan advantage (Hausman, 2005). On the other hand, in the absence of adequate intergovernmental coordination mechanisms both among sub-state units, and between the latter and the federal level, the nature of the party system might provide incentives for political officials in some MLG countries to act as territorial agents. For example, party polarisation around morality issues (such as same-sex marriage) will be stronger in meso-level units with high religious diversity, as parties compete to own the issue and gain an electoral advantage, particularly when political careers are built at this level of government (Mariani, 2020).

It should be noted, though, that moral divides within political parties, for instance around abortion rights, are more likely to be found in decentralised organizations, which leave the central party with limited capacity to align all regional branches on a single position and to discipline deviations from the national party platform. In this vein, MLG arrangements matter for policy outcomes not because of the centre-periphery division of power but because of its effect on party dynamics, which may be either centralised – i.e. linked to countrywide concerns – or territorialised – i.e. linked to regional concerns (Franceschet and Piscopo, 2013: 131). When political parties are centralised or integrated, they create connections across tiers of government through both formal and informal mechanisms, leading some authors to characterise these polities as 'party federalism'. It is more likely to be found in parliamentary democracies where policy 'innovation from above and from below has to be launched via parties' (Lang and Sauer, 2013: 77).

Intra-party organisational dynamics have also been found to mediate the relationship between formal institutions and women's descriptive representation. Indeed, even if federalism or political decentralisation widen the possibilities for the selection and election of women candidates, parties are still the main vehicles through which selection processes occur for both executive and legislative office at all tiers of government. Specifically, the impact of MLG arrangements (existing or new) on electoral gender quota adoption and implementation is contingent upon the internal distribution of authority between the central and the regional branches of political parties. When moderate intra-party multi-level shared decision-making is combined with relatively limited autonomy for the regional branches, quota reforms are more successfully enforced at both tiers, thereby 'overcoming the potential fragmenting effect of multiple levels'. Whereas high autonomy for regional branches undermines the central party's capacity to effectively implement gender quotas

(Kenny and Verge, 2013: 123). Moreover, in devolution processes, the creation of new institutions, with no incumbent candidates, and the choice of more gender-friendly electoral systems (i.e. proportional representation systems, as compared to plurality systems) has created new opportunities to make women's representation a more prominent feature in party competition (Russell et al., 2002: 72).

Actors navigating MLG: Women's movements and anti-gender movements

A key question going forward for gender and MLG scholars is 'which combination of conditions is positive or negative for attaining gender reform' (Vickers, 2013: 12). In other words, a 'conditional approach' to studying the interplay of gender and MLG structures needs to move beyond the question of whether MLG arrangements advantage or disadvantage women to a more nuanced analysis of '*which specific elements* of a given institutional arrangement are (or are not) renegotiable, and why some aspects are more amenable to change than others' (Thelen, 2004: 36; original emphasis). Actors adapt their strategies to the tiers and venues they target (Fetner, 2008). The characteristics and historical legacies of MLG arrangements, including the specific division of powers, also facilitate or constrain women's and LGBTI activism across tiers of government and across venues (Smith, 2018; Vickers, 2010; Vickers et al., 2013).

Lobbying efforts, for example, are easier to launch in states where key policies for women and LGBTI people fall under federal jurisdiction (Bashevkin, 1998; Smith, 2004; Macdonald and Mills, 2010; Obiora and Toomey, 2010). This is also the case in symmetrical MLG arrangements that more closely resemble unitary states, which facilitate the crafting of alliances and the spread of policy innovation through a policy learning process across the entire polity (Chappell and Curtin, 2013; Vickers, 2011). Likewise, in cooperative federations where there is a wide array of shared competencies - both vertically between the federal and sub-state units and horizontally between the sub-state units - progressive social movements find it easier to launch concerted lobby efforts at one level when the other level is not accessible (Mahon and Collier, 2010).

Conversely, exclusive division of powers, where the 'separate spheres' paradigm prevails, increase the operational costs of promoting women's and LGBTI groups' interests throughout the polity. They require social movements to lobby several access points at once when the competence is located at the meso level, which entails the need for more resources (Smith, 2004; Mahon and Collier, 2010). These challenges for women's organizations are heightened when the number of constituent units is larger; when they have bicameral (upper and lower) houses; when the federal Senate is elected; and when the polity is a presidential democracy with a strict separation between the legislative and the executive powers (Vickers, 2010: 424).

Asymmetrical MLG arrangements, where different sub-state units have a dissimilar level of competences, also impose higher coordination costs (Celis and Meier, 2011; Celis et al. 2013), which may advantage more resourceful conservative counter-movements (Hausssman, 2005; Macdonald and Mills, 2010). Territorial differences in

gendered citizenship can also limit opportunities for women's movements to deploy their strategies. In the UK, for example, while asymmetrical devolution has allowed for some degree of progressive change across its four nations, the dominant narrative in Northern Ireland has been one of 'difference', with abortion (and other gendered issues) considered 'off limits' by the central UK government (Thomson, 2019). Instead of opening up opportunities for 'venue shopping', devolution has created a 'ping pong' effect, where no action on abortion and reproductive rights is taken in Northern Ireland, but the central UK government has also absolved itself of responsibility for these issues.

The unidirectional examination of the opportunities for 'venue shopping' that vertical and horizontal divisions of power may afford has been gradually made more complex, as scholars have shifted to a 'two-way street' approach focused on investigating the (co-constitutive) relationship between institutions and actors (Chappell, 2002; Vickers, 2010). This implies 'revers[ing] the causal arrow' and to examine how organized women aim at changing or circumventing federal arrangements (cf. Vickers, 2010: 412). Indeed, similar institutions in MLG countries may accord the women's movement different opportunities; that is, feminist activists do not just seek to take advantage of existing opportunities but also seek to turn them to their advantage for advancing their aims (Chappell, 2000). For example, women's organizations and LGBTI groups have tried to 'nationalize' gender-equality issues by means of constitutional litigation, as in the case of abortion rights and same-sex marriage. This strategy is more likely to succeed in asymmetrical MLG arrangements, since 'ongoing contestation over the division of powers opens up political space feminists can use to change obstructive federal arrangements' (Vickers, 2010: 413; see also Sawyer and Vickers, 2001). Conversely, it is more difficult to deploy under MLG where an exclusive division of powers prevails (Vickers, 2010: 428).

Further attention is also needed to how divisions of power may have a dissimilar impact on minority women and majority women, as well as the strategies that both groups might find more effective to push their demands forward. In Canada, for example, nation-building projects at federal and Quebec levels promoted progressive gender regimes to gain women's support, culminating in the *Charter of Rights and Freedom* (Dobrowolsky, 2000; Vickers, 2011). English-Canadian women were advantaged by federal control of family and criminal law, but Franco-Quebec women benefited most from social policies at the provincial level, where Quebec had created their own, more 'women-friendly versions' of pan-Canadian programmes (Vickers, 2010: 425). Aboriginal women, however, were not advantaged, and continued to experience detrimental outcomes from colonialist federal laws (Green, 2003; Vickers, 2011).

Gender and MLG scholars would also benefit from engaging further with the growing body of work on 'anti-gender' movements in Europe and beyond, which offers a crucial piece of the 'puzzle' in terms of explaining resistance to change (see for example Kuhar and Paternotte, 2017; Verloo 2018). Work in this area demonstrates how MLG arrangements also impact the strategies of anti-gender movements to

oppose gender equality. For example, when marriage equality was upheld nationwide in the United States 2015, the state level became the arena from which to obtain exemptions for both the clergy and private businesses from providing services to LGBT couples (Mariani, 2020; see also Hausman, 2010 on abortion policy). Looking above the state, research also points to the ways in which supra-national institutions like the European Union have provided a platform for radical right populist parties to both frame debates at European level and to connect to right-wing constituencies at the national level (Kantola and Lombardo, 2020). The effect of this has been to polarize debates on gender equality and to limit spaces for debating progressive gender policies in sub-state, national and international forums.

Gender and MLG in turbulent times

The dispersion of political power from national governments to sub-state and supra-national ones has become a defining feature of contemporary democracies. Dialogue between mainstream studies of MLG arrangements and gender politics scholarship has been minimal to date, yet there is considerable value to bringing a gendered approach to the study of MLG. A gendered lens offers crucial insights into issues of power and change, exposing the extent to which MLG arrangements are gendered and investigating the conditions under which gains for women and gender equality can be achieved.

Research in the field must continue to ‘ask the other question’, bringing an intersectional lens to bear on majority and non-majority women’s experiences of navigating different MLG arrangements. Looking beyond the Global North will be crucial to advancing this agenda, as well as considering MLG arrangements in non-democratic or semi-democratic countries. We must also consider not just positive cases of gender change, but also negative cases, and cases where no action has occurred. ‘Actions not taken are as important as those that are’ (Thomson, 2019: 202) – and in complex MLG arrangements, gendered issues may be difficult to mobilize around politically and the onus for institutions to act on gender equality can get lost. Furthermore, focusing on not only formal, but also informal institutions – and their interplay – will increase our analytical leverage, allowing scholars to better explain differential effects across MLG systems and over time (cf. Banaszak and Weldon, 2011). Finally, more systematic, comparative and mixed-method studies are needed across multiple and diverse federations in order to gather more data and to develop robust theories and concepts that can travel across different settings

These questions are all the more important given the challenges that lie ahead for federal and decentralised countries, including: global economic recessions; increases in political polarisation and the rise of populism; and the COVID-19 pandemic. Policy responses to these kinds of crises may jeopardise the gains made by women, entailing a retrenchment of social and gender equality policies, as was the case of the global financial crisis of the last decade (Karamessini and Rubery, 2014). Indeed, policy responses to the COVID-19 pandemic have already had a regressive effect on gender equality – in particular by significantly increasing the burden of unpaid care, which is carried out disproportionately by women. The austerity policies enacted by the European Union and enforced by central governments have affected the

capacity of sub-state units to respond to economic crises - capacity which is shaped by the degree of fiscal centralisation of MLG arrangements and by the tax-raising powers and spending capacity of sub-state units. Yet, while federalism and MLG may potentially hamper responses to these contemporary challenges, there may also be the possibility that local, regional and national policy responses to these 'crisis moments' will lead to new opportunities for more progressive paths and gender regimes, creating spaces for women and for gender equality concerns.

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