

SWITZERLAND

In 1981, the Federal Constitution was modified to establish equality before the law, regardless of sex.¹ The Federal Office for the Equality of Women and Men was established in 1988 and a law banning any form of discrimination, including at the workplace, has been in force since 1996.²

1. Discriminatory family code

The Federal Constitution of Switzerland sets the statutory **minimum age of marriage** for women and men at 18.³

Forced marriages are defined as the use of violence or the threat of it to force someone into marriage. Forced marriages are criminalised by the Penal Code and punishable by five years of imprisonment or a fine.⁴ The new law against forced marriage that entered into force in 2013 stipulates that forced marriages are automatically dissolved, even if the partners would like to continue the marriage.⁵ In 2007, a campaign was launched by Swiss NGOs and the International Foundation for Population and Development (IFPD) to raise awareness on this issue in the main cities: Geneva, Lausanne, Fribourg and Neuchatel.⁶

There appear to be no restrictions in the legislation for women to be the head of the household and enjoy **parental authority**.⁷ The Civil Code stipulates that each spouse is responsible for their own actions and that they both represent the household.⁸ The Civil Code establishes equal responsibilities in terms of financially supporting the household and regarding the upbringing of the children. No evidence was found of customary or religious law governing parental authority.

The Civil Code grants equality to women and men in terms of **inheritance rights**.⁹ However, according to the 2009 CEDAW report, laws governing inheritance of property often prevent widows from inheriting farms in the event of their husband's death.¹⁰ The agricultural sector in Switzerland is presided by a particular legal framework in order to protect the Swiss Heritage as an undivided

¹ Article 8

² Swiss Federal Department of Foreign Affairs. <http://www.swissworld.org/en/people/women/equality/> (accessed 03/04/2014)

³ Article 94. United Nations Statistics Division (2008) Minimum Legal Age for Marriage Without Consent [database] <http://data.un.org/Data.aspx?d=GenderStat&f=inID:19> (accessed 18/03/2014)

⁴ Article 181a

⁵ Humanrights.ch (n.d.), http://www.humanrights.ch/de/Schweiz/Inneres/Gewalt/Zwangsheirat/idart_5902-content.html [accessed 02/05/2014]

⁶ UNFPA Europe. <http://europe.unfpa.org/public/news/pid/1753> (accessed 24/04/2014)

⁷ World Bank's Women Business and the Law Database.

<http://wbl.worldbank.org/data/exploreconomies/switzerland/2013> (accessed 18/03/2014)

⁸ Article 166

⁹ Articles 457 and 462

¹⁰ CEDAW/C/CHE/CO/3 (2009) p. 9

family property.¹¹ This Law protects the interests of the sustainability of the family farm over the interests of individual family members. In case of a divorce for example, the female spouse is unable to get her share of common property (there are some differences depending on the matrimonial regime), and very often siblings (both male and female) who do not continue working on the family farm will not get their equal share of the family domain.

More

Both women and men enjoy equal **rights to initiate divorce** as established in the Civil Code.¹² Despite the provisions in the Civil Code to promote equality between spouses, according to the 2009 CEDAW report, rural women find themselves in a precarious situation after divorce as they struggle to recover any personal assets invested in the family farm and, as they are not considered to have been employed during marriage, are not able to access unemployment insurance benefits.¹³

The Civil Code establishes that the parent, who does not have custody of the child after divorce, has a right to a personal relationship with the child.¹⁴ According to a 2004 study by the *Coordination Romande des Organisations Paternelles* ('Network of Father's organisation of Romansh region')(CROP), Switzerland has experienced a shift in child custody patterns in the last decades. While in 1984 sole custody was granted to the mother in 86% of the cases and there were zero cases of shared custody, in 2002, 66% of children were under the custody of the mother, 6% under the custody of the father and 26% were under shared custody. This suggests a more significant involvement of the fathers in the upbringing of the children.¹⁵

There is a new law on family names in Switzerland. The new law allows either spouse to keep his or hers family name, or the spouses can choose to keep only the husband's or the wife's family name.¹⁶

The Civil Code establishes that the spouse engaged predominantly in **domestic work** is entitled to a regular and fair share of her or his spouse's earnings to be spent freely.¹⁷

2. Restricted physical integrity

According to the last CEDAW report (2009) many issues involving violence against women have not been properly addressed, such as the absence of a comprehensive national law on violence against women.¹⁸ In Switzerland, 22.3% of women experience sexual violence by non-partners in their lifetime.¹⁹

Domestic violence is covered by several different provisions of the Penal Code and one article of the Civil Code.²⁰ The Civil Code establishes the right of victim to have the perpetrator expelled from their

¹¹ Loi sur le Droit foncier rural, LDFR, <http://www.admin.ch/opc/fr/classified-compilation/19910253/index.html>

¹² Articles 111-113

¹³ CEDAW/C/CHE/CO/3, (2009), p. 9

¹⁴ Article 273

¹⁵ Patrick Robinson (2004) "Analyse des statistiques sur le divorce et sur l'attribution des enfants en Suisse" http://www.crop.ch/images/coordination/pdf/droit-general/20050115_Analyse-AutoriteParentaleConjointe.pdf (accessed 20/03/2014)

¹⁶ nouvelle loi sur le nom de famille en Suisse (entrée en vigueur 1er janvier 2013), <https://www.ch.ch/fr/mariage-et-nom/>

¹⁷ Articles 163-165

¹⁸ CEDAW/C/CHE/CO/3, (2009)p.6

¹⁹ UN (n.d.), <http://www.un.org/en/women/endviolence/situation.shtml>

²⁰ Departement Fédéral de l'intérieur et Bureau fédéral de l'égalité entre femmes (2013) « La violence domestique dans la législation suisse »

place of residence and to file for a protection order.²¹ In the Penal Code, some of the listed offences linked to domestic Violence are minor physical harm²², recurrent injury²³, threats²⁴, sexual coercion²⁵ and spousal rape²⁶. Stalking is not classified as a criminal offence, which can create problems for women being stalked by their former partners.²⁷ The Penal Code was modified in April 2004 to establish that the police is no longer required to wait for the victim to file a complaint in order to pursue legal action against a perpetrator.²⁸ Moreover, 26 local laws were amended in 2011 through the inclusion into the Swiss Code of Criminal Procedure of the *Loi fédérale du 23 mars 2007 sur l'aide aux victimes d'infractions* ('Federal Act of 23 March 2007 on the aid to victims of crimes'). From this moment on, the victim is defined as the person who has suffered a direct attack on his or her physical, mental or sexual integrity.²⁹ Two of the main rights of the victims include being informed by the police of her/his rights and of the current legal status of the perpetrator (if under detention, etc.).³⁰

All cantons have *Centres de Consultation* ('Counselling Centers') that provide aid to victims of violence and inform them of their rights under the Federal Act of 23 March 2007 on the aid to victims of crimes. These centres are directed for women and men as well as children and adolescents.³¹ Counselling is also available for perpetrators.³² In the case of female victims, some of the services provided are protection and accommodation, social and psychological support, material aid and financial assistance.³³

Even before Article 28b of the Civil Code established the rights of protection orders of the victims in 2006, several cantons had introduced rules of prevention and protection against domestic violence. But since the new section of the Civil Code came into force, all cantons have grounded their provisions on domestic violence on what is established by the Civil Code. Some cantons chose to include the changes into their Police Act; others preferred to adopt a specific law on protection against violence.³⁴

According to data provided by the Swiss National Bureau of Statistics, in 2011, 38.1% of all violence offenses were offenses of domestic violence. The police recorded 8597 cases of domestic violence in 2011. More than half of the offenses occur within couples (53.1%) and about a quarter between ex-

²¹ Article 28b; Département Fédéral de l'intérieur et Bureau fédéral de l'égalité entre femmes (2013) « La violence domestique dans la législation suisse » p.6

²² Article 123, ch. 2, al. 3-5

²³ Article 126, al. 2, let. b, b^{bis} and c

²⁴ Article 180.2

²⁵ Article 189

²⁶ Article 190.

²⁷ <http://www.cfd-ch.org/16tage/material/SwissNationalActionPlanWAVE.pdf>

²⁸ Département Fédéral de l'intérieur et Bureau fédéral de l'égalité entre femmes (2013) « La violence domestique dans la législation suisse » p.2

²⁹ Département Fédéral de l'intérieur et Bureau fédéral de l'égalité entre femmes (2013) « La violence domestique dans la législation suisse » p.3

³⁰ Département Fédéral de l'intérieur et Bureau fédéral de l'égalité entre femmes (2013) « La violence domestique dans la législation suisse » p.4

³¹ Federal Office for Gender Equality's website. www.ebg.admin.ch/themen/00009/00089/00120/index.html?lang=fr (accessed 21/03/2014)

³² Federal Office for Gender Equality's website.

<http://www.ebg.admin.ch/themen/00009/00089/00121/index.html?lang=fr> (accessed 21/03/2014)

³³ Bureau fédéral de l'égalité entre femmes (2009) *Vers l'égalité entre femmes et hommes : Situation et évolution*. p.29

³⁴ Département Fédéral de l'intérieur et Bureau fédéral de l'égalité entre femmes (2013) « La violence domestique dans la législation suisse » p.8

partners (28.4%). Also, women are 3.1 times more likely to be the victim than men. Foreign women are 4.5 times more vulnerable to domestic violence than Swiss women.³⁵ A 2005 study found that 10.5% of women suffered physical or sexual violence from their partner in their adulthood.³⁶ The same study also gives interesting information regarding the increased vulnerabilities of migrant women victims of domestic violence: they are less likely to seek help as they are less informed and encounter language barriers; and their limited social network means they are less likely to leave their house.³⁷ In addition, many do not report domestic violence for fear of having to return to their country of origin.³⁸ In terms of information on how stereotypes influence domestic violence, the ONG Terre des Femmes Suisse reports that the link between domestic violence and the question of “honour” is seldom taken into account. It is universally assumed that domestic violence is only linked to the notion of honour within immigrant communities, as opposed to Swiss nationals, and this dimension is rarely taken into account.³⁹

The Swiss Penal code distinguishes between different types of sexual aggressions, setting apart **rape** from sexual coercion⁴⁰. Rape is defined as forcing a woman to engage in the sexual act through the use of threats, violence or psychological pressure or by putting her in a situation where she is unable to resist. The punishment is one to ten years of imprisonment. If the perpetrator acts in a cruel manner, for instance by utilizing a dangerous weapon, the minimum punishment is three years.⁴¹ The Penal Code specifies that the minimum punishment is ten years plus a fine for perpetrators that take advantage of victims who are incapable of discernment or resistance.⁴² Sexual coercion is defined in the same way as rape, except for that in this case there seems to be no penetration but an act of a sexual nature.⁴³ The punishment for sexual coercion is also ten years, plus a fine.⁴⁴

According to 2013 information provided by the Federal Department of Interior and the Federal Office for Gender Equality, marital rape is taken into account.⁴⁵

The police recorded 205 cases of reported rape in 2009, 184 in 2010 and 197 in 2011⁴⁶, out of which there were 128, 128 and 86 convictions respectively.⁴⁷

Sexual harassment is addressed in the Federal Act on Gender Equality (1995)⁴⁸, the Criminal Code⁴⁹, the Labour Law (1964)⁵⁰ and the Obligations Code⁵¹. It is defined in the 1995 Act as any harassing

³⁵ Office Fédéral de la Statistique (2012) « Violence domestique enregistrée par la police » p.5

³⁶ Killias, Simonin & De Puy (2005)

³⁷ <http://www.admin.ch/ch/d/sr/1/142.20.de.pdf>

³⁸ : Gewalt in Paarbeziehungen , Studie des EBG vom 13. Mai 2009 (pdf, 205 S.), available under:

http://www.humanrights.ch/de/Schweiz/Inneres/Gewalt/Gewalt/idart_6930-content.html

³⁹ Terre de Femmes Switzerland's website. <http://www.terre-des-femmes.ch/fr/gewalt-ehre/was-sind-gewalt-ehre/eg-situation-in-der-schweiz> (accessed 21/03/2014)

⁴⁰ “contrainte sexuelle”

⁴¹ Article 190 of the Penal Code

⁴² Article 191

⁴³ Article 189 ; Centre Hospitalier Universitaire Vaudois's website.

http://www.chuv.ch/dgo/dgo_home/dgo_patients/dgo_info_violence/dgo_info_violence_viol.htm(accessed 21/03/2014)

⁴⁴ Article 189

⁴⁵ Departement Fédéral de l'intérieur et Bureau fédéral de l'égalité entre femmes (2013) « La violence domestique dans la législation suisse » p.4

⁴⁶ Office Fédéral de la Statistique (2012) « Violence domestique enregistrée par la police » p.9

⁴⁷ Office Fédéral de la Statistique's website.

http://www.bfs.admin.ch/bfs/portal/fr/index/themen/19/03/03/key/strafstaten/haeufigste_delikte.html (accessed 21/03/2014)

⁴⁸ Articles 4 and 5.3

behaviour of a sexual nature or other behaviour related to the person's sex that adversely affects the dignity of women or men in the workplace. Such behaviour includes in particular threats, the promise of advantages/promotions in return for sexual favours, and the use of coercion. Moreover, the Federal Office for Gender Equality, the public institution responsible for dealing with sexual harassment cases, also includes offensive remarks and sexist jokes, unwelcome physical contact or touching, pressure or requests for sexual favours associated with the promise of job advantages or threats.⁵² In addition, according to information provided by the Federal Office for Gender Equality, the law stipulates that employers have an obligation to protect their employees from sexual harassment.⁵³ However the penalties are not clearly stated in the legislation, nor are the measures for its implementation.

A 2007 survey found that 28% of women and 10% of men interviewed felt sexually harassed during their professional life or felt disturbed by harassment during this period.⁵⁴

In terms of stereotypes around sexual harassment, the Federal Office for Gender Equality has identified two commonly-believed myths. First, the ways in which woman dresses and behaves are the main causes for sexual harassment. Second, that complimenting people on their physical appearance is always welcome.⁵⁵

More

Since 2002, **abortion** is available on demand in Switzerland.⁵⁶

The Swiss Federal Office for Police reports that between 1,500 and 3,000 victims of **trafficking** in women come to Switzerland every year.⁵⁷ The main victims of human trafficking and forced labour in Switzerland are women, in the form of sexual exploitation or in the domestic work sector. Article 182 of the Criminal Code criminalises such practice.⁵⁸ Prostitution of minors also disproportionately affects women and girls, and there was a recent change in the Penal Code to reflect this.⁵⁹

3. Son bias

The male/female **sex ratio** for the total population in 2014 is 0.97 while the sex ratio at birth is 1.06.⁶⁰ There is no evidence that missing women is an issue in Switzerland.

⁴⁹ Article 198

⁵⁰ Article 6.1, *Ordonnance* 3 and 4

⁵¹ Article 328.1

⁵² Federal Office for Gender Equality's website. <http://www.ebg.admin.ch/themen/00008/00074/index.html?lang=fr> (accessed 20/03/2014)

⁵³ Bureau fédéral de l'égalité entre femmes (n.d.) « Harcèlement sexuel sur le lieu de travail. Informations à l'intention des employeuses et employeurs » pp. 4-5

⁵⁴ Bureau fédéral de l'égalité entre femmes (n.d.) « Harcèlement sexuel sur le lieu de travail. Informations à l'intention des employeuses et employeurs » pp.6-7

⁵⁵ Bureau fédéral de l'égalité entre femmes (n.d.) « Harcèlement sexuel sur le lieu de travail. Informations à l'intention des employeuses et employeurs » pp. 14-15

⁵⁶ <http://www.svss-uspda.ch/fr/suisse/comparaison.htm>

⁵⁷ FIZ (n.d.) Trafficking in Women, <http://www.fiz-info.ch/en/Topics/Trafficking-in-women>

⁵⁸ <http://www.admin.ch/opc/de/classified-compilation/19370083/201401010000/311.0.pdf> (in german)

⁵⁹ Département fédéral de justice et de police (2014), Recourir aux services sexuels de jeunes entre 16 et 18 ans sera désormais puni, <http://www.ejpd.admin.ch/content/ejpd/fr/home/dokumentation/mi/2014/2014-03-070.html>

⁶⁰ CIA. <https://www.cia.gov/library/publications/the-world-factbook/fields/2018.html> (accessed 28/03/2014)

More

Based on 2008-2012 data, there is virtually no gender gap in terms of education in regards to primary and secondary school enrolment in Switzerland.⁶¹

4. Restricted resources and assets

Women and men enjoy secure **access to land and non-land assets** as established by the Federal Constitution and the Civil Code.⁶² Marital status does not affect these rights.⁶³ There is no evidence that these rights are subject to customary or religious laws and practices. In the last CEDAW report (2009) Switzerland was criticized by the lack of comprehensive information and statistical data on the situation of rural women.⁶⁴ No data was found on women's access to, decision-making over and control of land or non-land assets.

A number of efforts were made to improve women's access to land and non-land assets. The Office federal de l'Agriculture (OFAG) has conducted a survey in 2012 on "Women in Swiss Agriculture"⁶⁵.

No legal restrictions were found on women's right to **access financial services**, such as opening a bank account, accessing formal and informal credit.⁶⁶ No evidence of women experiencing discrimination in accessing financial services.

A 2006 study indicated that women only represent one-third of all entrepreneurs in the country.⁶⁷ However, there are some initiatives to support women to successfully apply for bank loans through acting as guarantors for smaller amounts, such as SAFFA.⁶⁸

5. Restricted civil liberties

Women enjoy equal rights as men to **access public life**. Freedom of movement is guaranteed for all citizens by the Federal Constitution⁶⁹, as well as freedom to choose one's domicile⁷⁰. The Federal Constitution grants women and men equal rights to freedom of expression⁷¹ and freedom of assembly⁷². No evidence of discriminatory practices restricting women's freedom of expression, public collective action and freedom of assembly.

There are no **quotas** at the national and sub-national levels to promote women's political participation. The Social Democratic Party of Switzerland established that 40% of the candidates on

⁶¹ World Bank Development Indicators Database <http://databank.worldbank.org/data/views/reports/tableview.aspx> (accessed 3/04/2014) ; UNICEF. http://www.unicef.org/infobycountry/netherlands_statistics.html (accessed 3/04/2014)

⁶² Article 8 of the Federal Constitution. Articles 919-941 of the Civil Code

⁶³ World Bank's Women Business and the Law Database.

<http://wbl.worldbank.org/data/exploreconomies/switzerland/2013#using-property> (accessed 21/03/2014)

⁶⁴ CEDAW/C/CHE/CO/3, (2009)p.9

⁶⁵ Agrarbericht 2012 Frauen in der Schweizer Landwirtschaft, www.admin.ch/blw

⁶⁶ World Bank's Women Business and the Law Database.

<http://wbl.worldbank.org/data/exploreconomies/switzerland/2013#using-property> (accessed 21/03/2014)

⁶⁷ Confédération Suisse, Promotion des femmes entrepreneures

, <http://www.kmu.admin.ch/publikationen/02583/index.html?lang=fr>

⁶⁸ www.saffa.ch

⁶⁹ Article 10.2

⁷⁰ Article 24

⁷¹ Article 16.2

⁷² Articles 22 and 23

the party's list should be women. Constitutional quota regulations were proposed in 1996 and 2000, but the proposals did not succeed.⁷³

In terms of female representation in the Federal parliament, women occupy 62 seats of the 200 Lower House posts, that is, 31%. In the Upper House, there are 9 female representatives, out of 46 seats.⁷⁴ Switzerland has put in place a manual to guide women who are interested in participating in politics.⁷⁵

More

Women acquired the right to vote at the national level in 1971 ;⁷⁶ although one canton, Appenzell Innerhoden, granted the right to vote only in 1990..⁷⁷

The Constitution protects women against **discrimination in employment**.⁷⁸ However, the gender gap in employment is still prevalent. Women are still less likely than men to participate in the labour market. In Switzerland, 73% of women have jobs. This is more than the OECD average of 60% but less than the 85% employment rate of men in Switzerland. This 12 percentage point gender difference is in line with the OECD average and suggests Switzerland could further improve employment opportunities for women but has generally been successful in addressing the constraints and barriers women face in accessing work. Moreover, some 85% of men are in paid work, compared with 73% of women.⁷⁹ Also, while 9% of men are part-time employees, the percentage for women is 46%.⁸⁰

Wage gap is recently a highly debated topic in Switzerland and there are several reports on this issue.⁸¹ A study suggests that between 2010 and 2012, the salary difference between men and women grew by 0.5%: women earned on average 18.9% less than men with the same qualifications.^{82, 83}

The duration of paid **maternity leave** in Switzerland is 14 weeks, paid at 80% of their wages.⁸⁴ Maternity leave is paid by the Social Insurance System. There is no legislated paternity leave.⁸⁵

Many women in Switzerland either stop working at the moment of childbirth or interrupt their professional career and re-integrate the labour market at a more advanced age. However, female senior workers experience discrimination by employers, who do not give them priority.⁸⁶

⁷³ The Quota Project. <http://www.quotaproject.org/uid/countryview.cfm?country=42> (accessed 21/03/2014)

⁷⁴ Inter-Parliamentary Union <http://www.ipu.org/wmn-e/classif.htm> (accessed 21/03/2014)

⁷⁵ et Bureau fédéral de l'égalité entre femmes <http://www.ebg.admin.ch/dokumentation/00012/00197/index.html?lang=fr> (accessed 21/03/2014)

⁷⁶ The Swiss Authorities Online . <https://www.ch.ch/fr/droit-de-vote/> (accessed 03/04/2014)

⁷⁷ Demokratie (n.d.), Small chronology for women's suffrage in Switzerland, <http://demokratie.geschichte-schweiz.ch/chronologie-frauenstimmrecht-schweiz.html> (accessed 30/04/2014)

⁷⁸ Article 8

⁷⁹ <http://www.oecdbetterlifeindex.org/countries/switzerland/> (accessed 21/03/2014)

⁸⁰ World Economic Forum (2013) Global Gender Gap Report. p.348

⁸¹ Swiss Statistics,

http://www.bfs.admin.ch/bfs/portal/en/index/themen/03/04/blank/key/lohnstruktur/nach_geschlecht.html

⁸² Swiss Info (2014), Gender wage gap widens in Switzerland,

http://www.swissinfo.ch/eng/swiss_news/Gender_wage_gap_widens_in_Switzerland.html?cid=38491840

⁸³ Office fédéral de la statistique, Egalité salariale entre hommes et femmes en Suisse,

<http://www.bfs.admin.ch/bfs/portal/fr/index/themen/20/05/blank/key/loehne.html>

⁸⁴ The Swiss Authorities Online <https://www.ch.ch/en/maternity-leave/> (accessed 21/03/2014)

⁸⁵ World Economic Forum (2013) Global Gender Gap Report. p.349

There is also horizontal discrimination in the labour market: men tend to be predominantly active in technical professions, while women in the care and education sectors.⁸⁷ In addition, orientations in school careers are very much stereotypical, with the effect of reproducing a horizontal discriminatory labour market.⁸⁸

⁸⁶ See PNR60 research project coordinated by LeFeuvre,
http://www.nfp60.ch/F/projets/travail_organisations/egalite_seniors_emploi_egalise/Pages/default.aspx

⁸⁷ ESPA/OFS: see some of the PNR60 research project

⁸⁸ See PNR60 projects; synthesis to be published 27 May 2014

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