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European Union Policy on Gender Equality: The Scope and Limits of Equality in the Single Market

Gwenaëlle Perrier

10.1 Introduction

Of the many inequalities that exist in Europe, those involving gender are as significant as ever. According to the 2014 European Commission report on equality between men and women, the percentage of women in employment was 11.5 points lower than the percentage of men (p. 7),¹ and the difference in earnings was 37% in 2010 (p. 15). Of the elected representatives in European Union (EU) state parliaments, only 28% were women, and the figure for European corporate boards was 20% (p. 20). European society also comprises a range of inequalities that cut across the likes of social class, ethnic background and country of origin, and place women in a very heterogeneous group which is itself characterised by marked inequalities (European Commission 2015).

These statistical inequalities exist despite primary Community law establishing the principle of equality: in 1957 the Treaty of Rome banned pay discrimination on the basis of gender, and the 1999 Treaty of

G. Perrier (✉)
University Paris 13, Villetaneuse, France

Amsterdam (Article 2) establishes equality between men and women as one of the tasks of the EU. This relative voluntarism underpinned by legality has encouraged European institutions to implement a bona fide gender equality policy and has given the impression that this policy represents a 'drive towards equality' (Fraisie 2003).

How is it possible that the EU, which has often been noted for its preference for all things economic over social and political change, has been able to develop a gender equality policy? And how does this policy manifest itself within the overall policy of European integration in the single market?

10.2 A Pioneering Institution in the Promotion of Gender Equality (1957 to the 1980s)

Europe's belated and rather timid response to social issues has given rise to numerous criticisms; nevertheless, from the 1970s onwards, a public policy promoting gender equality was formulated. How can we make sense of this unexpected digression in the matter of social policy?

10.2.1 An Early Commitment to Gender Equality, but One Marked by Ambivalence

The Treaty of Rome gives overall priority to economic issues, but there is an exception: Article 119, which espouses the principle of equal pay for equal work. Its very existence is even more remarkable when we consider that at the time, the percentage of working women in Member States was quite low and their careers were often interrupted (Maruani 2011). In point of fact, the impulse for laying the legal cornerstone of a pan-European gender equality policy cannot be considered as egalitarian. Article 119 was added to the treaty following concerns by the French delegation that its national equal pay measures² were not reflected throughout the European Economic Community (EEC), and that, in particular, its textile sector would suffer because of competition

from the female dominated textile sectors in other Member States (Hoskyns 1996). Sophie Jacquot (2009) describes a policy (gender equality) geared to the needs of the market: supporting equal pay would prevent distortions in the competitive model and ensure that the fledgling internal market would operate effectively in line with the economic interests of major industrialists.

Article 119 may have fulfilled an economic function when it was first written, but its scope has become much broader. From the 1970s onwards, it acted as the legal basis for a number of European directives on equal pay for equal work, on equal treatment in matters of social security, and on equal treatment in the matter of access to jobs and training. Notwithstanding their legal obligations, these directives are noteworthy for being adopted prior to the creation of state feminism in Member States (Mazur and Stetson 1995). At the beginning of the 1980s, the EEC's policy towards gender equality included a series of action programmes whose remit surpassed that of Article 119, that is, eliminating gender stereotypes in school curriculum materials, establishing the role and place of immigrant women, protecting women against violence and ensuring a maximum political representation of women (Mazey 1998).

Thus, Article 119 on equal pay provided the legal basis for the development of a gender equality public policy during the 1970s, enshrined in law, which was solely related to the labour market and which evolved, as far as budgets would allow, to encompass wider-ranging themes from the 1980s onwards.

10.2.2 A 'Militant Elite' Fighting Inequality

The introduction of measures promoting gender equality ran alongside and was also made possible by the institutionalization of the theme of gender equality in European institutional decision-making. In 1976, in a bid to increase its own powers, the European Commission set up a 'Bureau for Problems Concerning Women's Employment', which in 1990 would become the Equal Opportunities Unit. Even if these structures can be viewed as relatively marginal in the grand scheme of Brussels administration, especially in the light of their limited human resources, they were

granted a considerable amount of freedom for initiative taking, hence enabling them to push forward the gender equality policy (Jacquot 2009). In 1984, the European Parliament created a Committee on Women's Rights (FEMM), which forged strong links with women's groups and feminist organisations (Jacquot 2009).

The role of such a 'militant elite' within the context of European institutions is key in helping us understand the development of a gender equality policy in the 1970s, and this in spite of the restrictive legal framework of Article 119 on equal pay. The 'militant elite' were a network of powerful women: 'femocrats',³ politicians, academics and representatives from women's organisations, who worked in unison to move gender equality beyond the bounds of the framework and therefore widen the scope of the EEC's activities in this area (Jacquot 2009).

10.2.3 The Deficiencies in the Equality Policy with Regards to the Single Market

However, this policy attracted criticism for its direction, its approach and its coverage from both academics and militants alike.

According to several authors, the fact that the directives focused on issues surrounding work and employment, and that the structural causes of inequality outside of the world of work remained beyond the scope of the EEC, had a considerable bearing on the capacity of the policy to change gender relations (Duncan 1996; Young 2000; Mazey 1998). The private sphere weighed in with issues such as the right to abortion and gender violence, neither of which was addressed in EEC legislation. As the European Court of Justice stated in 1989, the policy purports to "implement equal treatment between men and women not generally but only in their capacity as workers".⁴ Moreover, this institution bolstered the restrictive application of the policy with the backing of a number of Member States anxious to maintain their social policy prerogatives.

The European approach, with its emphasis on equal treatment, also attracted criticism. The directives doubtless served numerous individuals in cases of discrimination (Mazey 1988), but the promotion of formal

equality posed the problem as to the extent to which the law could be relied on as an instrument for change in social relations (Rossilli 1997). Being able to proclaim equal treatment does not resolve the structural inequalities that exist between men and women and that particularly impede women's access to employment.

Ultimately, several researchers have questioned the impact of the EEC's policy within Member States. I. Ostner and J. Lewis (1998), along with S. Mazey (1998), point out the existence of national filters, inherent to the transposition of directives into national law, which influenced the application of Community law. For example, the neoliberal philosophy espoused by the Conservative governments in the United Kingdom limited the impact of the directives on equal treatment: their transposition led to flexible working weeks and part-time employment, all in the name of 'supporting equal opportunities' (Mazey 1998, p. 422). M. Rossilli (1997) calls attention to the various interpretations by Member States of what constitutes pay when transposing the directives, for example, does pay include sick leave?

At the end of the 1980s, the EEC had therefore developed a policy, which despite its limited legal basis, was important, and considering the scant commitment by most Member States at the time, was also innovative, but limited by its thematic boundaries. The mobilisation of women keen to advocate for the cause of equality ensured that the policy expanded into other areas, regardless of the fact that at first it had been solely concerned with its original priority: equal treatment in the labour market. This original priority, however, was never called into question.

10.3 The 1990s Onwards: A New Impetus for the EU's Gender Equality Policy?

The EU's gender equality policy underwent a number of substantial changes from the 1990s onwards, in terms of both the methods employed to promote equality and the scope of intervention (beyond the labour market). The relationship between the EU's gender equality policy and its economic direction has continued to evolve, but remains problematic.

10.3.1 The Adoption of Gender Mainstreaming: Expansion or Dilution of the EU's Policy?

The first change occurred in how equality was promoted. When the policy of the 1970s was evaluated, it was clear that there had been persistent inequality, and this led EU's specialists in equality policy to question the effectiveness of an approach based on equal treatment (Jacquot 2009). As a consequence of this, from the middle of the 1990s, EU institutions began to promote 'gender mainstreaming'. Gender mainstreaming entails incorporating a gender perspective into all public policy to ensure anticipative action rather than corrective action in the fight against inequality.

If the notion of gender mainstreaming has created many expectations, its ability to bring about effective and substantial change in member state public policies has been disputed (Daly 2005; Rubery 2002). In particular, its adoption as a soft law measure, making it non-binding, with no legal sanctions should inequalities be proven, and vague instructions from the EU as to how this type of measure should be implemented, have limited its impact. The popular approaches used to implement gender mainstreaming at an infracommunity level, such as awareness raising and gender training, have not necessarily changed the behaviour of those responsible for implementing the approaches (Perrier 2013). The impact of gender mainstreaming has been largely dependent on it being embraced by local and national networks of women and on national institutional traditions which influence the form that the goal of equality should take (Perrier 2014).

10.3.2 The Politicisation of the Private Sphere: A Lever for Gender Equality?⁵

The second change in EU policy concerns the broadening of its scope. Indeed, from the 1990s onwards, various texts confirm the politicisation of family issues and the private sphere: a Council recommendation on childcare was adopted in 1992 (92/241/EEC); a Council directive on parental leave was issued in 1996 (96/34/EC); and the directive on part-time work (97/81/EC) has as one of its objectives to reconcile

family and professional life. Other texts, always non-binding, such as the Communication from the Commission on a framework strategy for gender equality (COMM (2000) 335 final), refer to the gender division of domestic labour.

This broadening in scope of the EU, characterised by a politicisation of issues which were traditionally considered as belonging to the 'private' domain, fits neatly into the double context of politics and economics. On the one hand, Jacques Delors, president of the Commission, actively pursued greater European involvement in the social domain, which was perceived as a launch pad for the reinvigoration and relegitimation of the process of integration during a phase marked by low impetus. On the other hand, Member States, preoccupied by the rising costs of social protection measures, viewed the employment of women as an underexploited resource. They started to show an interest in tackling the obstacles that prevented women from gaining access to full employment. The lack of childcare facilities and the difficulties in reconciling family and professional demands were clearly barriers for women in the labour market. Reconciliation was hence incorporated into the European employment strategy, whose aim was to increase the general rate of employment for adults of working age, especially for women.

This politicisation of the private sphere has not been without its ambiguities, however. It has certainly reflected feminist views that this sphere is the beating heart of masculine domination (Philipps 2000); it also represents the culmination of the sustained efforts by EU female specialists in equality who have relied in particular on the work of the EU childcare network to highlight the importance to the policy of reconciling family and professional life. But the development of this policy has encouraged ambiguity: an analysis of policy documents reveals that equality comes across more as being a device for achieving employment targets rather than a device in its own right; certain European Community documents reproduce a sexist categorisation of work, for example, proposing the development of flexible employment opportunities for women. Moreover, given the fact that equality objectives are subordinate to macroeconomic objectives, S. Jacquot points to the return of a market-driven policy (2009).

10.3.3 A Difficult Relationship Between the EU's Gender Equality Policy and its Economic and Budgetary Policy

The subordination issue between the objective of reconciliation and the objective of increased employment rates reflects the wider relationship between gender equality and overall EU policy.

In 2000, Brigitte Young highlighted the pressures engendered by the criteria of convergence and of the promise of stability and growth (these criteria impose public deficit caps) and by employment policies geared to business competitiveness. According to the authoress, these paths restrict the possibility of developing access to employment for women, who are more often than not present in public sectors and services such as education and health. In recent studies of the latest developments in EU economic and budgetary policy, several author.esse.s have noticed the threat posed by the 'Europe 2020' strategy (the Europe 2020 agenda replaces the Lisbon agenda) to European social models (Defraigne et al. 2013): the priority given to balancing state budgets and reducing public expenditure will affect pension, pay and employment levels. Throughout the EU, women receive less in the way of pay and pensions than men do, so it seems unlikely that the Europe 2020 strategy will reduce inequalities. The cases of Greece, Spain and France show that austerity policies, in whatever format, have had a negative impact on women via reductions in pensions, pay and public sector employment, via diminished redistributive policies and social rights, and via the consolidation of the role of caregiver in the context of a retreating welfare state (Karamessini 2015; Otaegui 2015; Marty 2015).

10.4 Conclusion

The success of the EU's gender equality policy therefore appears to be relative. The European commitment to fight inequality was progressive for its day and has driven forward policies within Member States. However, the overall impact of the policy remains unclear when viewed in the light of its problematic implementation in Member States. Moreover, the strength of this social policy, which has developed endosymbiotically with the single

market, has also been its weakness: it was first and foremost designed for the market, which automatically limits its scope. Although a 'militant elite' have endeavoured to move the policy beyond the confines of its strict labour market framework, their actions have been carried out under cover of the ambiguous nature of the policy's status, that is, the policy is subordinated to employment objectives. This uncertain status—legitimate anti-discrimination policy in its own right or economic policy tool for the development of the single market, employment and economic growth—begs the question as to which actors involved in the process of European integration hold the balance of power. Its status is also tied to the future of this process, which has historically been based on economic priorities, and whose expansion into social realms continues to cause debate. In more general terms, it seems only right to challenge the scope of the policy: where does it sit with regard to the neoliberal ethos that has flooded European policy and with regard to the austerity measures pursued by many Member States, where often it is women who are left counting the costs?

Notes

1. General data on employment (full-time and part-time) for people aged between 20 and 64 across all 28 EU Member States.
2. Especially the preamble to the Constitution of 1946.
3. This term, which is a contraction of 'feminist' and 'bureaucrat', refers to the female advocates who laboured for women's rights in state institutions (see Mazur and Stetson 1995).
4. Judgement of the Court of 27 June 1989. J.E.G. Achterbergte Riele and other v Sociale Verzekeringsbank. <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:61988CJ0048&rid=1>
5. This subsection draws its inspiration from the chapter written by Jönsson and Perrier and published in a book in 2009.

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Gwenaëlle Perrier is Associate Professor in Political Science in the University Paris 13 (CERAL) in France and associate researcher to Lise. She works mainly on public policies in inequality and gender discriminations and on the impact of European Union policies at the local level in France and Germany.