

So, What Has the EU Done for Women?

Written by Roberta Guerrina

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ROBERTA GUERRINA, MAR 10 2013

As we contemplate 40 years of UK membership of the European Community/Union, it is worth thinking about the role of this organisation as a gender actor. Looking at how the principle of equality has developed over the last 50+ years of European integration provides useful insights into the strengths and weaknesses in an approach to equality that is essentially premised on the acceptance of the neo-liberal paradigm.

The story starts in 1957 with the inclusion of Article 119 in the Treaty of Rome. Introduced to appease French concerns over social dumping, it has provided the legal foundations for all subsequent developments in the area of equality between men and women at the European level for nearly sixty years. Let's be clear, the *founding fathers* did not adhere to a feminist agenda; the principle of equal pay was introduced in the process to ensure the fair competition between the member states. Yet, it provided an opening for activists to pursue a more radical agenda.

The European Court of Justice supported the direct effect of the equality principle in the Defrenne case of 1976 and established the necessary political momentum for the development of secondary legislation that would broaden the principle of "equal pay for equal work" to "work of equal value" (1975 Equal Pay Directive) and equal treatment (1976 Equal Treatment Directive and related directives of the 1980s). In a nutshell, by the end of the 1980s the European Community was swiftly moving towards establishing a comprehensive definition of equality of opportunities for men and women in the field of employment.

Wider socio-economic trends in 1990s led to a renewed interest in the role of women as workers and mothers. The enlargement of the newly formed EU to the Nordic states added a new flavour to European debates about equality. After much debate in the Council and following a change in the treaty foundation – from Art. 119 (equality) to Art 118a (health and safety) – the Commission successfully championed the introduction of the 1992 Pregnant Workers Directive (92/85/EEC). This legally binding provision provided a minimum standard for the protection of employment rights of women who are pregnant or have recently given birth. It was certainly instrumental in shaping employment regulations relating to maternity leave and pay in the UK. The 1996 Parental Leave Directive (96/34/EC) extends the right to (unpaid) leave to fathers. These provisions establish a right to six months parental leave, but what is particularly radical is that each parent has a right to three months leave, which is non-transferable. The principles introduced in this policy have been recently consolidated in a new Directive that set the standards for time off to fulfill the function of care (Directive 2010/18/EU)

By the end of the 1990s the principle of mainstreaming had been included in the treaties and the body of European equality legislation provides a comprehensive safety net for women employed in the official labour market. The 1997 Directive shifting the burden of proof in sex discrimination cases is a clear example of the reach of European legislation in the area of gender equality in employment. This is not to say that the policies could not have been improved, but they represent a comprehensive set of legislation directly applicable at the national level and enforceable at the European level. It is also the most developed area of European social policy.

A qualitative shift in the way European equality policies are conceived and executed happened in the early 2000s. The introduction of the Open Method of Coordination marked a transition for the European equality agenda from an approach grounded in legally binding measures to one based on soft policy coordination. At first this is seen as a positive step in terms of bottom up governance, however it is soon apparent that policy learning and sharing of best

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practice in the area of equality are likely to produce stagnation or even a move towards lowest common denominator policies. The Lisbon targets for 60% female employment by 2010 are a positive move. They helped to establish a counter discourse to the dominant male breadwinner model. Reconciliation policies were therefore identified as key to increasing women's activation and participation in the labour market. Arguably, the Barcelona childcare targets represent the apex of public discourse on work-life balance.

The key driver for this new impetus was increasing awareness of the economic impact of Europe's ageing population. Women were thus seen as part of the solution to the likely labour shortage facing European welfare states. Women thus started to be seen as key to the delivery of high level public policy objectives. This focus on women's activation led scholars, such as Jane Lewis to question the continued relevance of the male breadwinner model. Persuasive argument were put forward by the 2000s that the Adult Worker Model was becoming prevalent in Europe. Yet, policy makers failure to address structural inequalities, such as men's role as carers, quality of work, and time poverty, betrays their biases about women's responsibilities in discharging the function of care. Work-life balance policies simply buy into hegemonic gender structures, but seek to provide a vehicle for "allowing" women to reconcile paid work and the responsibilities of care.

By the end of the middle of the first decade of this century the EU sought to consolidate its position as a gender actor. Two legislative acts are particularly worth of notice: 1. the 2004 Equal Treatment in Access to Goods and Services Directive (2004/113/EC), is the first legally binding piece of legislation that tackles equality outside of the employment sphere; 2. the 2006 Equal Opportunities and Equal Treatment Directive (2006/54/EC), which provides a comprehensive framework against discrimination. Clearly these policies mark a shift towards a wider approach to equality between men and women.

The European Gender Roadmap (2006-2010) extends the reach of EU discourse on equality. Casting the net very wide this action programme include issues ranging from economic independence to the eradication of gender stereotypes and a commitment to promote women's rights in external relations. Finally, the launch of the Women's Charter in 2010 to coincide with the 15th anniversary of the Beijing Platform for Action represents a high level commitment to challenging structural inequalities that prevent women from achieving their full potential.

Clearly the European Union has been a positive force in promoting women's employment rights. It has provided a safety net that safeguards women's access and position in the official labour market. It is important to recognise the achievements of this organisation, and many of the people working within its institutions, in promoting *women friendly* policy agenda. However, we must not take the achievements of the last fifty years for granted. The Euro crisis and associated politics of austerity highlight the fragile nature of the gains set out above. Austerity is a deeply gendered approach to crisis management. Many of the cuts enacted by European governments over the last couple of year affect social and welfare services that often enable women to participate in the official labour market. The discourse of crisis is increasingly seen as in conflict with to the rights and social cohesion agenda. Part of the problem is that many of the (hard fought) rights now entrenched within European and national law focus on promoting a framework for access to the labour market. At these particularly difficult economic times, it is therefore all the more important that European institutions hold the ground on gender equality, even if their stance is biased in favour of formal (rather than substantive) equality.

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